



**Town of Altavista, Virginia
Meeting Agenda Planning Commission
Planning Commission**

**Tuesday, January 3, 2023
5:00 PM - 510 7th Street
Altavista, VA 24517**

January 3, 2023 Planning Commission Meeting

- 1. CALL TO ORDER**
- 2. APPROVAL OF AGENDA**
- 3. WELCOME AND INTRODUCTION OF COMMISSIONER ASHBY ROBINSON**
- 4. APPROVAL OF NOVEMBER 7, 2022 MINUTES**
 - 4.1 [Planning Commission Meeting - Minutes 11/7/22 attachment. PC Mtg. Minutes 11.07.22](#)
- 5. CITIZEN COMMENT PERIOD**
- 6. PUBLIC HEARING(S)**
- 7. OLD BUSINESS**
 - 7.1 [2045 Comprehensive Plan Update](#)
- 8. NEW BUSINESS**
 - 8.1 [Planning Commissioners' Welcome Packet & Matters Considered by Public Bodies Planning-Commission-Welcome-Packet.pdf](#)
[Albermarle County Digest of Land Use Issues.pdf](#)
 - 8.2 [Review of Planning Commission Bylaws, Rules of Procedure, and Roberts Rules of Order Cheat Sheet](#)
[Bylaws - PC - 2023.pdf](#)
[Rules of Procedure.pdf](#)
[ROBERTS_RULES_CHEAT_SHEET.pdf](#)
 - 8.3 [Planning Commission Statement of Ethical Principals and Government Ethics - Albermarle County Land Use Law Handbook](#)
[PC Code of Ethical Principals 2023.pdf](#)
[Albermarle Ethics in Government.pdf](#)
 - 8.4 [Discretionary Land Use Decisions, Ex Parte Communication, and Freedom of Information Act](#)
[Albermarle Approach to Discretionary Land Use Decisions.pdf](#)
[Ex-Parte Communications.pdf](#)
[FOIAGuideForMembersPublicBodies.pdf](#)

8.5 [2022 Annual Report](#)
[Altavista Planning Commission 2022 Annual Report.pdf](#)

8.6 [Visioning Exercise](#)

9. ADJOURNMENT

THE TOWN OF ALTAVISTA IS COMMITTED TO FULL COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT STANDARDS. TRANSLATION SERVICES, ASSISTANCE OR ACCOMODATION REQUESTS FROM PERSONS WITH DISABILITIES ARE TO BE REQUESTED NOT LESS THAN 3 WORKING DAYS BEFORE THE DAY OF THE EVENT. PLEASE CALL (434) 369-5001 FOR ASSISTANCE.



TOWN OF ALTAVISTA
PLANNING COMMISSION
January 3, 2023
AGENDA COVER SHEET

AGENDA ITEM #: 4.1

Approval of November 7, 2022 Minutes

Title: Planning Commission Meeting - Minutes 11/7/22

Staff Resource: Sharon D. Williams, AICP, Community Development Director

Action(s):

Approve minutes as presented; or direct Staff of revisions needed.

Explanation:

Background:

Funding Source(s):

N/A

Attachments: *(click item to open)*

[*attachment. PC Mtg. Minutes 11.07.22*](#)

The Altavista Planning Commission held their regularly scheduled meeting on Tuesday, November 7th, 2022, at 5pm, in Council Chambers at Town Hall, located at 510 7th Street, Altavista, VA.

Members present: John Jordan, Chairman
Marie Mitchell, Vice Chair
Reggie Bennett, Vice Mayor
Marvin Clements
Meghan Bolling

Staff present: Sharon D. Williams, AICP, Community Development Director
John Eller, Town Attorney
Crystal Hailey, Assistant Town Clerk

CALL TO ORDER

Chairman John Jordan called the Altavista Planning Commission Meeting to order at 5:00 p.m.

DETERMINATION OF QUORUM

With all Commissioners present, Chairman Jordan confirmed a quorum.

APPROVAL OF AGENDA

Chairman Jordan asked if there were any amendments needed to the agenda, and there were none.

Upon a motion by Vice Chair Marie Mitchell, and seconded by Commissioner Marvin Clements, the Planning Commission voted 5-0 to approve the November meeting agenda as presented.

PLEDGE OF ALLEGIANCE & INVOCATION

Chairman Jordan delivered an Invocation for the meeting and afterwards, the Planning Commission and staff recited the Pledge of Allegiance.

APPROVAL OF MINUTES

Chairman Jordan asked the Commission if they saw any amendments needed in the October 2022 meeting minutes, to which there were none.

With a motion made by Vice Mayor Bennett, and seconded by Vice Chair Mitchell, the minutes for the Commission's October meeting were approved as presented, with a 5-0 vote.

PUBLIC EXPRESSION

Mr. Glenn Berger, 206 River Oaks Drive, Altavista, came before the Planning Commission regarding his property located at 3326 Lynch Mill Road, and asked that the Commission consider rezoning the property as residential, which was its original zoning and use for over 200 years; or to revise the definition of the property's current Industrial zoning district to include residential use.

Mr. Berger pleaded his case by referencing Altavista's need for additional housing. He stated there were homes existing on three sides of his property, and while Abbott Labs was located behind his property, through traffic for transfer trucks was prohibited to Lynch Mill Road and directed to use the

Clarion Road entrance of Abbott's facility. Mr. Berger said that he believed the property and home would better serve the community as residential, not industrial.

Chairman Jordan asked Community Development Director Sharon Williams what the Planning Commission's next steps in processing Mr. Berger's request were.

Ms. Williams stated there were no actions required of the Planning Commission at that time. She said that she had explained the process to Mr. Berger, and, after that evening, his next course of action was to submit a formal application to the town for consideration to allow his property to be rezoned to permit residential use. Ms. Williams reminded the Commission that rezoning one parcel would be considered "spot zoning", and in most cases, illegal.

Commissioner Bolling asked why the property was rezoned from residential to Industrial.

Town Attorney John Eller, the former owner of the property, stated that the property was rezoned Industrial in the 1970s, to coincide with the new Ross/Abbott Plant being built on the adjacent property.

Chairman Jordan recommended Mr. Berger submit an application if he if he intended to continue the rezoning process. He thanked Mr. Berger for his time.

PUBLIC HEARINGS

2045 Comprehensive Plan Update

Chairman Jordan opened this public hearing at 5:12pm.

Community Development Director Sharon D. Williams gave an overview of the subject. Ms. Williams introduced Kelly Hitchcock, Director of Planning and Development at the Central Virginia Planning District Commission (CVPDC), which assisted with the Comprehensive Plan update. Ms. Williams stated that a Comprehensive Plan was a locality's long-range vision for its future, and that localities were required to review their plan every five years. She referenced Code of Virginia, *Section 15.2-2223(a)*, the Planning Commission shall prepare and recommend a Comprehensive Plan for the physical development of its jurisdiction; and the governing body shall adopt the plan. She said, while the Planning Commission, Town staff, and the CVPDC worked together to prepare the update, an online survey was also created to gather citizen input. Ms. Williams stated, the plan included information gathered from a SOAR (Strengths, Opportunities, Aspirations, and Results) Analysis and that the plan was restructured to include information the town's history, its historic Downtown District, and Avoca Museum. She informed the Commission that the demographic data had been updated based on the 2020 Census, and the new plan incorporated other Town Plans that mentioned Community Development Director or the Planning Commission as an implementor. She said what was created was a vision of a thriving Altavista in 2045 and showcased the town as a regional service center. Ms. Williams stated that one of the most important aspects of the Comprehensive Plan update was the Planning Commission's intense review of and the decided revisions made to the Future Land Use Map (FLUM), showing their collective vision for the Town of Altavista's land development. Ms. Williams stated that the draft Comprehensive Plan was advertised as required, and a required hearing being held.

Commissioner Bolling asked if the copy of the Draft Comprehensive Plan that the Commission received was the final copy.

Ms. Williams stated the draft would be adopted as the final copy unless Town Council made changes.

With no further questions or comments from the Commission, and no public comments, Chairman Jordan closed the public hearing at 5:28 pm.

Upon a motion by Vice Chair Marie Mitchell, and seconded by Commissioner Marvin Clements, the Planning Commission voted in favor, 5-0, to accept the Draft Comprehensive Plan as presented; and for Staff to deliver a recommendation to the Town Council to adopt the updated plan.

Chairman Jordan referenced the request heard from Glenn Berger earlier that evening and asked staff if his request was considered reasonable and if the FLUM update conflicted with the potential of rezoning Mr. Berger's property at 3326 Lynch Mill Road.

Ms. Williams answered it did not. She reminded the Commission that she believed approval of Mr. Berger's request would be considered spot zoning; therefore, staff would recommend denial of the request. Ms. Williams recommended cancellation of the December Planning Commission meeting. She said the Commission would start the update to the Zoning and Subdivision Ordinances at the January Planning Commission Meeting. She said, during the process, the town could consider adding another zoning district, such as Residential/Office, to the Zoning Ordinance and asked the Commission to think of items they wanted to address.

Chairman Jordan shared his favor with Ms. Williams suggestion. He also stated, that if a citizen submitted a proposal that was prohibited by the town's existing rules and regulations, but the proposal was within reason and good for the town, he was in favor of investigating all possible avenues to help the citizen, and the town, come to an acceptable solution.

Ms. Williams said that wanting to help an upstanding citizen of the community was commendable, but she reminded the Commission that zoning was mandated by state code and all localities with zoning should not to be arbitrary in their decision making.

Vice Mayor Reggie Bennett stated that he believed spot zoning was permitted if the action financially benefited the locality. He referenced functional zoning, where in some cases properties were allowed to be used as residential within an industrial zoning district, if the surrounding industries were not considered a residential nuisance.

Ms. Williams reminded the Commission that functional zoning was not in Altavista's existing ordinance. She suggested rather than tackle a specific property they look at the matter holistically during the upcoming Zoning Ordinance update; and consider a new zoning district for such matters.

There was a unanimous consensus of the Planning Commission to accept staff's recommendation.

OLD BUSINESS - There were no old business items to discuss at that time.

NEW BUSINESS

No new business items were scheduled for this meeting.

Chairman Jordan referenced Commissioner Clements' term expiring December 31st, 2022, and asked the Commission if anyone had a recommendation for his replacement.

Ms. Williams informed the Commission that Commissioner Clements submitted a recommendation for Mr. AJ Robinson; and accordingly, she forwarded the recommendation to the Town Manager.

Commissioner Clements informed the Planning Commission that Mr. Robinson had lived in Altavista his entire adult life and was a supervisor at Abbott Laboratories. Mr. Clements said that he believed Mr. Robinson would be a good fit for the Commission and a good community representative. He said Mr. Robinson was eager to serve his community.

There was a unanimous consensus of the Planning Commission to recommend AJ Robinson to Town Council for consideration of Commissioner Clements' replacement on the Commission.

Ms. Williams stated that she would forward the recommendation to the Town Manager. She said the recommendation would most likely be considered at the Town Council meeting that next evening, Tuesday, November 8th.

Adjournment:

With no further business to discuss, Chairman Jordan adjourned the meeting at 5:42 p.m.

John Jordan
Planning Commission Chair

Sharon D. Williams, AICP
Planning Commission Secretary



TOWN OF ALTAVISTA
PLANNING COMMISSION
January 3, 2023
AGENDA COVER SHEET

AGENDA ITEM #: 7.1

Old Business

Title: 2045 Comprehensive Plan Update

Staff Resource: Sharon D. Williams, AICP, Community Development Director

Action(s):

Receive information from staff

Explanation:

An update on the Comprehensive Plan will be given.

Background:

On December 13, 2022 Town Council voted 5-0 to approve the 2045 Comprehensive Plan as presented by a vote of 7-0.

Funding Source(s):

General Fund

Attachments: *(click item to open)*



TOWN OF ALTAVISTA
PLANNING COMMISSION
January 3, 2023
AGENDA COVER SHEET

AGENDA ITEM #: 8.1

New Business

Title: Planning Commissioners' Welcome Packet & Matters Considered by Public Bodies

Staff Resource: Sharon D. Williams, AICP, Community Development Director

Action(s):

Receive information from staff.

Explanation:

The Community Development Director has created a "welcome packet" for new Planning Commissioners.

Background:

To assist with the onboarding of new Planning Commissioners, the Community Development has created a Welcome Packet for new members which can be used as a guide by all Commissioners.

Included is Appendix E of the Albermarle County Land Use Handbook, which is listed as a resource in the Welcome Packet. This document provides an overview of the key matters that are considered by governing bodies, Planning Commissions, Architectural Review Boards (historic preservation boards), and staff. This guide is a go-to tool for localities across the Commonwealth.

Funding Source(s):

N/A

Attachments: *(click item to open)*

[*Planning-Commission-Welcome-Packet.pdf*](#)

[*Albermarle County Digest of Land Use Issues.pdf*](#)

Town of Altavista Planning Commission

Welcome Packet 2023



Department of Community Development

Welcome!

Congratulations on your appointment to the Town of Altavista Planning Commission.

This packet was designed to guide you through your four-year term as a member of the Planning Commission. Within the packet you will find information on:

page 3	Planning Commission Overview
4	Department of Community Development
5	Zoning Ordinance
7	Subdivision Ordinance
8	Comprehensive Plan
9	Different Types of Land Use Cases
10	<i>Rezoning (Zoning Map Amendment) Review Procedures</i>
11	<i>Special Use Permit Review Procedures</i>
12	Commission Logistics
13	Additional Resources

Planning Commission Overview

The following overview is designed to help get you acquainted with the rules and responsibilities associated with being a member of the Town of Altavista Planning Commission. It is intended to be a resource to you as you fulfill your term on the Planning Commission.

Mission

To make recommendations on planning activities that best promote the health, safety, convenience, and general welfare of the Town of Altavista's citizens.

The Planning Commission

The Planning Commission is an appointed body charged with promoting the orderly development of the community. Every locality in Virginia is required to have its own Planning Commission (Code of Virginia § 15.2-2210). Per state law, the Planning Commission is responsible for a variety of tasks:

- Preparing the local Comprehensive Plan;
- Preparing and reviewing amendments to the zoning and Subdivision Ordinances;
- Reviewing proposed changes to the zoning map; and
- Reviewing the local Capital Improvement Program (CIP), at the direction of the governing body.

The Planning Commission is not a legislative body, but an **ADVISORY COMMITTEE**. It makes recommendations to Town Council on legislative matters related to land use, such as the adoption and amendment of the Comprehensive Plan, Zoning Ordinance, and Subdivision Ordinance.

In the Town of Altavista, the Planning Commission consists of five (5) voting members, which includes one (1) member from Town Council (Town Code Reference: Chapter 58, Article II). Each member is appointed to serve a four-year term.

Department of Community Development

Staff from the Department of Community Development provide technical support to the Planning Commission. The department's duties are described below.

Current Planning (Development Administration)

Staff is responsible for the administration and enforcement of the Zoning and Subdivision Ordinances. Tasks associated with the administration of these ordinances include the processing of subdivision proposals, site plans, rezoning applications, special use permit (SUP) applications, and variances. Staff also responds to general inquiries and other requests. The department serves as the primary staff contact for the Planning Commission and Board of Zoning Appeals and provides support to the Town Council as needed or requested.

Long-Range Planning (Project/Policy Development and Management)

Planning recommendations are routinely provided to the Planning Commission and the Town Council on a wide array of issues. Strategic and long-term planning begins with the preparation and implementation of the Comprehensive Plan; associated Comprehensive Plan or zoning text amendments; and other local projects. These planning documents provide the foundation for many of the land use and budgetary decisions implemented by the Town of Altavista.

Staff also works with regional and state agencies to address transportation issues and other matters of regional and/or statewide significance, including the Transportation Technical Committee (TTC) for the Central Virginia Planning District Commission (CVPDC).

Code Compliance

Code compliance helps ensure that the Town of Altavista's zoning regulations are enforced consistently and equitably.

A variety of code issues are reported to the department, including zoning violations, tall grass, nuisances, and environmental concerns.

Violations are investigated as complaints from the public are received.

Under the Code of Virginia the names, addresses, and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body are confidential.

Zoning Ordinance

The Zoning Ordinance establishes regulations regarding the use of land. It also establishes design standards for new development. The Town of Altavista's Zoning Ordinance was first adopted in July 1965, and it has been amended over time to reflect the changing needs of the community. Localities in Virginia are not required to adopt a Zoning Ordinance, but most have [Code of Virginia § 15.2-2280].

Zoning Districts

In the Town of Altavista, there are Seven (7) different zoning districts and one (1) overlay district. An interactive zoning map can be found at <https://altavista.maps.arcgis.com/apps/webappviewer/index.html?id=a9fe7f155fb8445a9ba9c0dc9b07b214>

Residential Districts	
These zoning districts listed in Article III, Division 2, 3, and 4 are intended to maintain the residential character of those areas and to promote and encourage a suitable environment for the enjoyment of family life.	
Low Density Residential (R-1)	Medium Density Residential (R-2)
Residential Manufactured Home Park (R-MHP)	

Commercial Districts	
These zoning districts listed in Article III, Division 5 and 6 are intended to establish within the town to provide for the establishment or continuation of small businesses that serve surrounding residential uses and a wide variety of businesses to which the public requires direct and frequent access and is characterized by frequent vehicular and pedestrian traffic.	
Local Commercial (C-1)	General Commercial (C-2)

Industrial District	
This zoning district (listed in Article III, Division 7) is intended to provide areas where the principal use of the land is for light, moderate, and heavy industrial operations where business can be successful and grow in the community.	
Industrial (M)	

Planned Unit Development District

This zoning district listed in Article III, Division 7 is intended to promote a broad mix of land uses in more intensive development settings, promote the efficient use of land, allow for flexible development standards, provide open space, and protect the natural features and beauty of the land. Planned unit developments (PUD's) are intended to provide variety, flexibility, mixed-uses, and convenience for residents.

Planned Unit Development (PUD)

Uses within the Zoning Ordinance

Within each zoning district, there are permitted (by-right) uses, special uses, accessory uses, and temporary uses. Each use listed is defined within the Zoning Ordinance [Sec. 83-521].

Permitted Uses

These are uses permitted by-right as a principal (primary) use on the property. Permitted uses can take place without any legislative approval from Town Council.

An example of a principal use permitted within the R-1 zoning district is single-family detached dwelling.

Special Uses

These are uses that are only permitted on a specific property within a specific zoning district with approval of the Town Council. Special uses may be appropriate at certain locations, but not throughout the entire zoning district. With approval of a Special Use Permit (SUP), Town Council may impose conditions on how the use is operated.

An example of a Special Use Permitted within the C-2 zoning district is mini storage.

Accessory Uses

These are uses that are "incidental and customarily subordinate to principal uses." A specific accessory use may be permitted by-right or with a special use permit.

An accessory use may not be located on a property unless there is a principal use. For example, a garage may be a permitted accessory use associated with a single-family dwelling located within the R-1 zoning district.

Temporary Uses

These are uses that are of limited duration (do not permanently occur at a specific location). A specific temporary use may be permitted by-right or with conditional approval.

An example of a temporary use permitted within the R-1 zoning district is a mobile storage container (45 days per Sec. 86-602(b)(1)).

Dimensional Standards

Within each zoning district, there are dimensional requirements, such as:

- Minimum Lot Area/Size
- Minimum Lot Width
- Maximum Lot Coverage
- Minimum Front, Side, and Rear Yard Depths/Setbacks

Development Standards

Development standards govern certain physical features of a project and the form that development can take, regardless of the underlying zoning district. These standards address several components of the development, including:

- Vehicular Access and Circulation (Sec. 86-565);
- Off-Street Parking and Loading (Sec. 86-561);
- Landscaping and Buffers (Sec. 86-571);
- Exterior Lighting (Sec. 86-591); and
- Signage (Sec. 86-639).

Subdivision Ordinance

The Subdivision Ordinance regulates the division of land by establishing procedures for dividing land and requirements regarding the provision of infrastructure (roads, utilities, etc.) as land is developed.

Unlike the Zoning Ordinance, the Subdivision Ordinance does not address the use of properties but helps ensure that development occurs in an orderly manner and is served by the necessary infrastructure. The approval of subdivision plats is an administrative process, with the Department of Community Development reviewing subdivision plans to determine whether they meet the provisions of the Subdivision Ordinance.

Virginia Code requires that all localities adopt a Subdivision Ordinance (Code of Virginia § 15.2-2240).

Comprehensive Plan

The Comprehensive Plan establishes a vision of what the Town of Altavista should look like in 20 to 30 years. It identifies objectives and strategies that can be implemented to realize the community's vision.

The Comprehensive Plan addresses a variety of topics, including land use, housing, economic development, and natural resources. The document includes the *Future Land Use Plan* and the goals and objectives for the Town of Altavista.

The Comprehensive Plan is an **ADVISORY** document intended to guide zoning decisions and public investment. The Planning Commission and Town Council consider the plan's recommendations when evaluating different policies and proposals, including rezoning requests, Special Use Permits, and the Capital Improvement Program (CIP).

Per state law, every locality in Virginia must have a Comprehensive Plan (Code of Virginia § 15.2-2223), and it must be regularly reviewed (Code of Virginia § 15.2-2230).

The current Comprehensive Plan was adopted on December 13, 2023. Any amendments to the Comprehensive Plan must be reviewed by the Planning Commission and approved by the Town Council.

Different Types of Land Use Cases

The Planning Commission reviews and provides a recommendation on legislative issues related to land use. Below is a list of the types of legislative issues that might be reviewed by the Planning Commission and an explanation of the typical review process.

The Planning Commission reviews and provides a recommendation on the following requests:

- Rezoning (Zoning Map Amendments)
- Special Use Permits (SUPs)
- Amendments to the Zoning Ordinance
- Amendments to the Subdivision Ordinance
- Amendments to the Comprehensive Plan

For each of the types of cases, a public hearing is held before the Planning Commission and the Town Council. Prior to each public hearing, a notice is published in the newspaper of record (which is the *Altavista Journal*) for two consecutive weeks and letters are mailed to adjoining property owners.

After holding a public hearing and discussing the merits of a request, the Planning Commission may:

- Recommend approval of the request;
- Recommend denial of the request; or
- Defer a decision to a later meeting.

Per the Code of Virginia, the Planning Commission must make a recommendation regarding a particular request within 100 days of the public hearing. All recommendations are forwarded to Town Council, which makes the final decision on all requests (approval or denial).

Ministerial actions, such as the review of subdivision plats and site plans, are reviewed administratively by the Department of Community Development to ensure compliance with standards set forth in the Subdivision and Zoning Ordinances (no review by the Planning Commission).

Rezoning (Zoning Map Amendments)

Rezoning requests are requests to change the zoning of a particular property. Requested rezonings (zoning map amendments) must be reviewed by the Planning Commission and approved by Town Council. While these requests involve changing the property's zoning classification from one district to another, they may also involve modifications to conditions (proffers) imposed upon a property as part of a previous rezoning case.

A rezoning may or may not include proffers, which are voluntary offers made by an applicant/ landowner during the rezoning process to perform an act or donate money, a product, or services to justify the appropriateness of a proposed rezoning. These proffers (or conditions) govern the use of the property, imposing additional requirements and restrictions that exceed standards set forth in the subdivision and Zoning Ordinances. A rezoning request that includes proffers is referred to as conditional zoning (Sec. 86-792).

Rezoning requests are reviewed as follows:

1. Pre-Application Conference

The applicant must meet with the Director of Community Development to discuss the rezoning request and the review process.

2. Neighborhood Meeting

If the rezoning request will increase the intensity of uses on the property, a neighborhood meeting is recommended, where the applicant will invite adjoining property owners and the public to learn more about their proposal.

3. Application Submittal and Acceptance

A rezoning application may be submitted to the Department of Community Development. Payment is due at the time of submission.

4. Staff Review

The application will be reviewed by the Department of Community Development, other town departments, and applicable state agencies.

5. Planning Commission: Public Hearing and Review

The Planning Commission will hold a public hearing and review the request. After discussion, the Planning Commission may recommend approval, denial, or deferral. This recommendation is forwarded to Town Council.

6. Town Council: Public Hearing and Decision

Town Council will hold a public hearing and review the request. After discussion, Town Council may approve, deny, or defer the request.

An applicant/landowner may request amendments to proffered conditions associated with an approved rezoning request. Proffer amendments follow the same review process as general rezoning request.

Special Use Permits

Per the Zoning Ordinance, certain uses may be permitted within select zoning districts with approval of a Special Use Permit (SUP). Uses that require a SUP may be appropriate in certain locations, but not throughout the entire zoning district. The Planning Commission and Town Council review SUP applications to ensure that the proposed use:

- Does not change the character and established pattern of development in the surrounding area;
- Is compatible with uses permitted by-right within the zoning district; and
- Does not adversely affect the use or value of neighboring properties.

Town Council may require that applicants adhere to certain conditions, which are intended to offset any potential negative impacts the use may have on the surrounding community. If the approved conditions are not met, the SUP may be revoked.

Special Use Permit requests are reviewed as follows:

1. Pre-Application Conference

The applicant must meet with the Director of Community Development to discuss the request and the review process.

2. Neighborhood Meeting

The applicant may choose to hold a neighborhood meeting, where adjoining property owners and the public are invited to learn more about the proposal.

3. Application Submittal and Acceptance

A SUP application may be submitted to the Department of Community Development and payment is due with the submittal.

4. Staff Review

The application will be reviewed by the Department of Community Development, other town departments, and applicable state agencies.

5. Planning Commission: Public Hearing and Review

The Planning Commission will hold a public hearing and review the request. After discussion, the Planning Commission may recommend approval, denial, or deferral. This recommendation is forwarded to Town Council.

6. Town Council: Public Hearing and Decision

Town Council will hold a public hearing and review the request. After discussion, Town Council may approve, deny, or defer the request.

Commission Logistics

Virginia Freedom of Information Act

The Virginia Freedom of Information Act (FOIA) provides the public with a right to access meetings of government bodies and access information used to conduct government business.

Any gathering, email, or phone call of three or more members of the Planning Commission is considered a meeting. Any meeting (three or more members of the Planning Commission) must be open to the public and advertised at least three working days prior to the meeting.

Emails, text messages, and other correspondence regarding issues associated with your role as a member of the Planning Commission may be considered public documents. This correspondence should be saved/maintained in case a member of the public requests this information under FOIA.

Getting Started

Once a new member is appointed to the Planning Commission, the following actions need to be taken (with support from the Department of Community Development):

- Payroll Forms

The member must submit completed payroll-related forms to the Human Resources Department to receive a stipend. Each member receives \$50 per meeting attended, with Certified Planning Commissioners receiving \$75, which is paid monthly. This stipend is mailed to the address on file with the Town of Altavista.

Additional Resources

Land Use Education Program

The Land Use Education Program (LUEP) at Virginia Commonwealth University (VCU) offers the nationally recognized Virginia Certified Planning Commissioner Program, which is held several times a year in different parts of the state. It provides detailed information regarding planning processes and practices. For more information, visit:

<https://cura.vcu.edu/land-use-education/>

Managing Growth and Development in Virginia: A Review of the Tools Available to Localities

The Virginia Chapter of the American Planning Association regularly updates this toolkit to keep localities up to date on the most current enabling legislation pertaining to land use planning in Virginia. The toolkit can be accessed at:

<https://virginia.planning.org/policy-and-advocacy/updated-toolkit-released/>

Albemarle County Land Use Law Handbook

The Albemarle County Land Use Law Handbook was created as a resource regarding land use issues and is published online as a convenience to citizens. The handbook can be accessed at:

<https://www.albemarle.org/government/county-attorney/resources/land-use-lawhandbook>

Comprehensive Plan

The 2045 Comprehensive Plan is available on the Town of Altavista Website. It can be accessed at:

https://www.altavistava.gov/government/town_departments/planning_zoning/town_plans.php

Zoning & Subdivision Ordinance

The Town of Altavista Zoning Ordinance (Chapter 86) and Subdivision Ordinance (Chapter 66) are available online through Municode. Both chapters can be accessed at:

https://library.municode.com/va/altavista/codes/code_of_ordinances.

Online GIS

The Town of Altavista maintains an online GIS mapping system. It is available to the public at:

<https://altavista.maps.arcgis.com/apps/webappviewer/index.html?id=a9fe7f155fb8445aaba9c0dc9b07b214>

Appendix E

Digest of Key Matters Considered by the Board of Supervisors, the Planning Commission, the Architectural Review Board, and by County Staff

1. Planning and zoning

A. Amendments to the Comprehensive Plan

<i>Nature of the Matter:</i>	The Comprehensive Plan is the plan for the physical development of the County. It may be amended from time to time and must be reviewed at least once every 5 years to determine whether it is advisable to amend the Plan. Although the Comprehensive Plan is significant in most, if not all, zoning decisions, the Plan itself is not regulatory in nature but, instead, is advisory when applied to those zoning decisions.
<i>Commission Role:</i>	The Planning Commission holds a public hearing and makes a recommendation to the Board of Supervisors on the proposed amendment.
<i>Board Role:</i>	The Board holds a public hearing and is the decision-making body on the proposed amendment.
<i>Board Act:</i>	Action to amend or not amend, or to remand to the Commission for further consideration.
<i>Nature of the Act:</i>	Legislative. ¹
<i>Considerations:</i>	The following statement is from Virginia Code § 15.2-2223, which is a summary of the considerations for the adoption of a comprehensive plan, but which could be applied to amendments as well: “The comprehensive plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and persons with disabilities.”

B. Reviewing a proposed public feature under Virginia Code § 15.2-2232 (“2232 Review”) to determine whether it is substantial accord with the Comprehensive Plan

<i>Nature of the Matter:</i>	Proposed public features (generally, some type of public facility such as a street, park, public area, public building, public utility facility, or public service corporation facility, except for railroad facilities and certain underground facilities) must be reviewed under Virginia Code § 15.2-2232 if they are not shown on the Comprehensive Plan and not part of a proposed subdivision, site plan, or plan of development.
<i>Commission Role:</i>	The Planning Commission holds a public hearing, is the decision-making body, and reports its decision, with reasons stated, to the Board of Supervisors.
<i>Board Role:</i>	The Board receives the Commission’s report of its decision and may decide whether to take further action.

¹ Legislative, ministerial, and other acts are explained in Chapter 8.

Nature of the Act: Legislative.

Considerations: Whether the proposed public facility's location, character, and extent are *substantially in accord* with the Comprehensive Plan. Generally, "substantially" means "largely, but not wholly."

C. Zoning Map Amendments

Nature of the Matter: The entire County is classified into more than 20 zoning districts. The regulations for each zoning district delineate the uses that are allowed by right and by special use permit, and establish other standards such as minimum lot sizes, the minimum and maximum setbacks of structures from property lines, and maximum building heights. A zoning map amendment, also known as a *rezoning*, changes the zoning district in which the land is located, or amends previously approved application plans, codes of development, or previously accepted proffers.

Commission Role: The Planning Commission holds a public hearing and makes a recommendation to the Board of Supervisors on the proposed amendment. The Commission's recommendation may be a recommendation that the applicant's land be rezoned to a district designation other than the one requested by the applicant, or that less land be rezoned than was proposed.

Board Role: The Board holds a public hearing and is the decision-making body on the proposed amendment.

Board Act: Action to amend or not amend, or to remand to the Commission for further consideration. If the Board decides to amend the zoning map, it adopts an ordinance. The Board also may amend the zoning map to a district that is less intensive than what was requested and advertised or rezone less land than was requested and advertised.

Nature of the Act: Legislative.

Considerations: For *zoning map amendments to conventional and planned development zoning districts and amendments thereto*: Virginia Code § 15.2-2284 provides that one or more of the following factors are to be considered when developing zoning regulations and drawing zoning district boundaries:

- The existing use and character of property.
- The comprehensive plan.
- The suitability of property for various uses.
- The trends of growth or change.
- The current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies.
- The transportation requirements of the community.
- The requirements for airports, housing, schools, parks, playgrounds, recreation areas, and other public services.
- The conservation of natural resources.
- The preservation of flood plains.
- The protection of life and property from impounding structure failures.
- The preservation of agricultural and forestal land.
- The conservation of properties and their values.
- The encouragement of the most appropriate use of land throughout the county.

Additional considerations for zoning map amendments establishing a planned development zoning district in Albemarle County: (1) whether the proposed planned development satisfies the purpose and intent of the planned development district; (2) whether the area proposed to be rezoned is appropriate for a planned development under the comprehensive plan; and (3) the relation of

the proposed planned development to major roads, utilities, public facilities, and public services.

Additional considerations for zoning map amendments amending a planned development zoning district in Albemarle County: (1) whether the proposed amendment reduces, maintains, or enhances the criteria of a planned development stated in County Code § 18-8.3; and (2) the extent to which the proposed amendment impacts the other parcels within the planned development district.

D. Zoning text amendments

Nature of the Matter: A zoning text amendment amends the text of the Zoning Ordinance.

Commission Role: The Planning Commission holds a public hearing and makes a recommendation to the Board of Supervisors on the proposed amendment.

Board Role: The Board holds a public hearing and is the decision-making body on the proposed amendment.

Board Act: Action to amend or not amend, to amend with further changes, or to remand to the Commission for further consideration. If the Board decides to amend the zoning text, it adopts an ordinance.

Nature of the Act: Legislative.

Considerations: *Consideration of the purposes of zoning.* Virginia Code § 15.2-2283 requires that zoning regulations be designed to give reasonable consideration to each of the following purposes:

- Provide for adequate light, air, convenience of access, and safety from fire, flood, impounding structure failure, crime, and other dangers.
- Reduce or prevent congestion in the public streets.
- Facilitate the creation of a convenient, attractive, and harmonious community.
- Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports, and other public requirements.
- Protect against the destruction of or encroachment upon historic areas.
- Protect against the overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic, or other dangers.
- Encourage economic development activities that provide desirable employment and enlarge the tax base.
- Provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment.
- Protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities.
- Promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality, as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated.
- Provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard.

The 12 factors in Virginia Code § 15.2-2284 that apply to zoning map amendments, delineated in Section 9-413, also apply to drawing district boundaries in zoning map amendments.

E. Special use permits

- Nature of the Matter:* Zoning district regulations delineate those uses allowed by right and those allowed by special use permit. Special uses are generally consistent with the purposes of the zoning district and the uses allowed by right, but they tend to have impacts that warrant case-by-case review so that conditions may be imposed to address those impacts.
- Commission Role:* The Planning Commission holds a public hearing and makes a recommendation to the Board of Supervisors on the proposed special use permit. The Commission's recommendation also includes a recommendation on any proposed conditions to be imposed in conjunction with the special use permit.
- Board Role:* The Board holds a public hearing and is the decision-making body on the proposed special use permit.
- Board Act:* Action to approve or deny the special use permit, or to remand to the Commission for further consideration. If the Board decides to approve the special use permit, it adopts a resolution. The Board may impose reasonable conditions to address the impacts from the special use.
- Nature of the Act:* Legislative.
- Considerations:* County Code § 18-33.8 provides that the following factors are to be considered: (1) whether the use will be a substantial detriment to adjacent parcels; (2) whether the character of the adjacent parcels and the nearby area will be changed by the proposed use; (3) whether the use will be in harmony with the purpose and intent of the Zoning Ordinance, with the regulations in County Code § 18-5, and with the public health, safety, and general welfare; and (4) whether the proposed use will be consistent with the Comprehensive Plan.

F. Special exceptions

- Nature of the Matter:* "Special use permits" and "special exceptions" are both used by Virginia localities to mean the same thing. In Albemarle County, special exceptions serve a different purpose than special use permits because special exceptions allow certain regulations pertaining to the size, height, area, bulk, or location of structures, and other similar types of standards, to be modified, waived, or varied, and do so only when they are expressly authorized in the Zoning Ordinance.
- Commission Role:* The Planning Commission holds a public hearing and makes a recommendation to the Board of Supervisors on the proposed special exception when the special exception proposes a change in use or an increase in the bulk of a building by more than 50% (two issues generally not allowed by special exception under the County's Zoning Ordinance), or where the parcel is located within one-half mile of a boundary of an adjoining locality. The Planning Commission also considers those applications for special exceptions for which staff does not recommend approval. When the Commission considers a special exception, it makes a recommendation to the Board of Supervisors. The Commission's recommendation also includes a recommendation on any proposed conditions to be imposed in conjunction with the special exception.
- Board Role:* The Board is the decision-making body, and special exceptions may be considered on the Board's consent agenda. If a public hearing is required (see explanation in "Commission Role" above), the Board first holds a public hearing before deciding.

<i>Board Act:</i>	Action to approve or deny the special exception, or to refer or remand to the Commission for further consideration. If the Board decides to approve the special exception, it adopts a resolution. The Board may impose reasonable conditions to address impacts from the special exception.
<i>Nature of the Act:</i>	Legislative.
<i>Considerations:</i>	The factors, standards, criteria, and findings, however denominated, in the applicable sections of the Zoning Ordinance allowing the modification, waiver, or variation.

G. Certificates of appropriateness

<i>Nature of the Matter:</i>	In Albemarle County, several arterial highways have been identified as significant routes of tourist access to the County and to designated historic landmarks, structures, or districts within the County or in contiguous localities. Structures and site improvements along and visible from these <i>entrance corridors</i> established, changed, or reconstructed must obtain a certificate of appropriateness unless they are exempt (exempt structures include primary and accessory dwelling units and structures for agricultural or forestal uses if a site plan is not required). The certificate of appropriateness is issued by the Architectural Review Board (“ARB”).
<i>ARB Role:</i>	The ARB is the decision-making body and it issues a certificate of appropriateness when it determines that the proposed structure or site improvement is consistent with the applicable design guidelines for the entrance corridor. In issuing a certificate of appropriateness, the ARB may impose reasonable conditions to ensure that the structures and site improvements are consistent with the applicable design guidelines.
<i>Commission Role:</i>	The Planning Commission has no role in a certificate of appropriateness application or appeal.
<i>Board Role:</i>	The Board of Supervisors may consider appeals from the decision of the ARB filed by the applicant, any person aggrieved, the Zoning Administrator, or the County Executive.
<i>Board Act:</i>	The Board may affirm, reverse, or modify in whole or in part the decision of the ARB.
<i>Nature of the Act:</i>	Legislative.
<i>Considerations:</i>	Under County Code § 18-30.6.4, the decision whether a proposed structure or site improvement is consistent with the applicable design guidelines considers architectural features such as structure height, scale, mass, roof forms, building materials and colors, the arrangement of structures, the location and configuration of parking areas and landscaping, proposed landscaping, the preservation of existing vegetation and natural features, the appearance of signs, and the location, type, and color of all fencing. County Code § 18-30.6.8 provides that, on appeal, the Board must “give due consideration to the recommendations of the [ARB] together with any other information it deems necessary for a proper review of the appeal. When considering an appeal pertaining to a public safety facility, the board may issue a certificate of appropriateness if it finds that the facility is a public necessity.”

2. Land development

A. Subdivision text amendments

<i>Nature of the Matter:</i>	A subdivision text amendment amends the text of the Subdivision Ordinance.
<i>Commission Role:</i>	The Planning Commission holds a public hearing and makes a recommendation to the Board of Supervisors on the proposed amendment.

<i>Board Role:</i>	The Board holds a public hearing and is the decision-making body on the proposed amendment.
<i>Board Act:</i>	Action to amend or not amend, or to remand to the Commission for further consideration. If the Board decides to amend the subdivision text, it adopts an ordinance.
<i>Nature of the Act:</i>	Legislative.
<i>Considerations:</i>	Whether the proposed regulation is enabled by Virginia Code §§ 15.2-2241 through 15.2-2245.1.

B. Subdivision Plats

<i>Nature of the Matter:</i>	Subdivision plats are schematic drawings that show how land will be divided into two or more lots and show the location and nature of required improvements. The role of the Subdivision Agent is to determine whether the plat satisfies the minimum requirements of the Subdivision Ordinance. If it does, the plat must be approved.
<i>Commission Role:</i>	The Planning Commission considers only appeals by the subdivider from the disapproval of a subdivision plat by the County's Subdivision Agent, or the approval of a preliminary subdivision plat with conditions to which the subdivider objects. The Commission's sole role is to determine whether the plat satisfies the minimum requirements of the Subdivision Ordinance. The Commission may approve or disapprove the plat, and it may approve a preliminary plat with the conditions to which the subdivider objects if they are required to satisfy an express requirement. If the plat meets the requirements of the Subdivision Ordinance, it must be approved.
<i>Board Role:</i>	The Board of Supervisors considers only appeals by the subdivider from the Commission's disapproval of the subdivision plat or its approval of a preliminary plat with conditions to which the subdivider objects. The Board's sole role is to determine whether the plat satisfies the minimum requirements of the Subdivision Ordinance.
<i>Board Act:</i>	Action to approve or disapprove the plat, and it may approve a preliminary plat with the conditions to which the subdivider objects if they are required to satisfy an express requirement. If the plat meets the minimum requirements of the Subdivision Ordinance, it must be approved.
<i>Nature of the Act:</i>	Ministerial.
<i>Considerations:</i>	The Subdivision Ordinance, and any other regulations that must be satisfied under the Subdivision Ordinance.

C. Site plans

<i>Nature of the Matter:</i>	Site plans are schematic drawings that show how land will be developed but not subdivided, including the location and nature of required improvements. Site plans are required for new developments, with exceptions for: (1) establishing not more than two single family dwellings on a single lot; (2) establishing a two-family dwelling on a lot not occupied by any other dwellings; (3) any structure that is accessory to single-family detached or two-family dwellings; (4) most agricultural activities; (5) changes or expansions of uses that do not affect parking, access, or ingress or egress; and (6) any religious assembly use with an assembly of 200 people or less. The role of the Site Plan Agent is to determine whether the site plan satisfies the minimum requirements of the site plan regulations in the Zoning Ordinance. If it does, the site plan must be approved.
------------------------------	---

<i>Commission Role:</i>	The Planning Commission considers only appeals by the developer from the disapproval of a site plan by the County's Site Plan Agent, or the approval of an initial site plan with conditions to which the developer objects. The Commission's sole role is to determine whether the site plan satisfies the minimum requirements of the site plan regulations in the Zoning Ordinance. The Commission may approve or disapprove the site plan, and it may approve the initial site plan with the conditions to which the developer objects if they are required to satisfy a requirement. If the site plan meets the requirements of the site plan regulations in the Zoning Ordinance, it must be approved.
<i>Board Role:</i>	The Board of Supervisors considers only appeals by the developer from the Commission's disapproval of the site plan or its approval of the initial site plan with conditions to which the developer objects. The Board's sole role is to determine whether the site plan satisfies the minimum requirements of the site plan regulations in the Zoning Ordinance.
<i>Board Act:</i>	Action to approve or disapprove the site plan, and it may approve an initial site plan with the conditions to which the developer objects if they are required to satisfy a requirement. If the site plan meets the minimum requirements of the site plan regulations, it must be approved.
<i>Nature of the Act:</i>	Ministerial.
<i>Considerations:</i>	The site plan regulations in the Zoning Ordinance, and any other regulations that must be satisfied under the site plan regulations.

D. Variations from and exceptions to subdivision plat or site plan requirements

<i>Nature of the Matter:</i>	The general regulations of the Subdivision Ordinance or the site plan regulations in the Zoning Ordinance may be varied or waived.
<i>Commission Role:</i>	Certain variations and exceptions pertaining to requirements for improvements are considered by the Planning Commission in the first instance while others are considered by the County's Subdivision Agent or the Site Plan Agent (the "Agent"). The variations or exceptions considered by the Agent may be considered by the Commission on appeal by the subdivider or developer (the "applicant") from the Agent's disapproval of the variation or exception or the approval of a variation or exception with conditions to which the applicant objects.
<i>Board Role:</i>	The Board of Supervisors considers only appeals by the applicant from the Commission's disapproval of the variation or exception or its approval of the variation or exception with conditions to which the applicant objects. On appeal, the Board determines whether the applicant should be permitted to vary or to be excepted from one or more of the otherwise applicable minimum requirements.
<i>Board Act:</i>	Approval, with or without reasonable conditions, or disapproval.
<i>Nature of the Act:</i>	Administrative.
<i>Considerations:</i>	Whether there are unusual situations or when strict adherence to the general regulations would result in substantial injustice or hardship.

3. Other matters

A. Erosion and sediment control and stormwater management

<i>Nature of the Matter:</i>	In conjunction with the land development process, and unless otherwise exempt, the disturbance of 10,000 square feet or more of land requires that the owner obtain approval of a
------------------------------	---

stormwater management permit (“VSMP”) under the Water Protection Ordinance (Chapter 17 of the County Code). These permits will include approval of erosion and sediment control plans and, in many cases, stormwater management plans. The VSMP permit is reviewed and acted on by the County Engineer, who is designated as the Program Administrator for the County’s VSMP program.

Commission Role: None.

Board Role: The Board of Supervisors considers only appeals of certain actions or inaction by the Program Administrator: (1) the disapproval of an erosion and sediment control plan or VSMP permit; (2) the approval of an erosion and sediment control plan or VSMP permit with conditions the owner objects to; (3) the disapproval of a variance or exception; (4) any determination made under County Code §§ 17-300 through 17-306, pertaining primarily to activities that are subject to or are exempt from the Virginia Erosion and Sediment Control Program (VESCP) or the VSMP; (5) any State permit decision made by the Program Administrator; (6) any enforcement decision made by the Program Administrator; (7) the failure of the Program Administrator to act within the time periods required by the Water Protection Ordinance; and (8) the approval of an erosion and sediment control plan or VSMP permit where the issue is compliance with State law (an appeal of number (8) may be brought by a downstream landowner).

Board Act: Affirm, reverse, or modify the action of the Program Administrator, or take any action the Program Administrator failed to take.

Nature of the Act: Quasi-judicial or ministerial, depending on the subject matter of the appeal.

Considerations: Whether the Program Administrator’s decision was correct under the Water Protection Ordinance.

B. Six-year plan for secondary state highways

Nature of the Matter: The six-year plan for secondary state highways is the plan for improvements to the secondary State highway system in the County. The plan lists the proposed improvements and the cost estimate of each project listed. The plan is based upon the best estimate of funds to be available to the County for expenditure in the six-year period.

Commission Role: None.

Board Role: Jointly with representatives of the Virginia Department of Transportation, the Board prepares a six-year plan for secondary State highways. After conducting a public hearing held jointly with the representatives of the Virginia Department of Transportation, the Board finalizes and adopts the plan.

Board Act: Legislative.

Considerations: The best estimate of funds to be available to the county for expenditure in the six-year period, which is provided by the Virginia Department of Transportation.

C. Agricultural and forestal districts

Nature of the Matter: The purposes of agricultural and forestal districts are two-fold: (1) conserve and protect agricultural and forestal lands for food production, environmental reasons, and aesthetic reasons; and (2) encourage the development and improvement of agricultural and forestal lands for producing food and other agricultural and forestal products. Land within a district is prohibited from being developed to a more intensive use, other than a use resulting in more

intensive agricultural or forestal production, without prior approval of the Board of Supervisors.

- Commission Role:* The Planning Commission conducts public hearings on requests to establish a district and to add land to an existing district, and on periodic reviews of existing districts (once every 4 to 10 years, depending on each district's review period).
- Commission Act:* Recommendation to the Board of Supervisors including, but not limited to, the potential effect of the district and proposed modifications upon the County's planning policies and objectives. As part of its periodic review of a district, the Commission must recommend whether to terminate, modify, or continue the district.
- Board Role:* Action to establish or add land or, for district reviews, action to terminate, modify, or continue the district. If the Board decides to establish, add to, continue, or modify a district, it adopts an ordinance.
- Board Act:* Legislative.
- Considerations:* Establishing and adding land to a district: Virginia Code § 15.2-4306 lists the following considerations for establishing and adding land to a district: (1) the agricultural and forestal significance of land within the district or addition and in areas adjacent thereto; (2) the presence of any significant agricultural lands or significant forestal lands within the district and in areas adjacent thereto that are not now in active agricultural or forestal production; (3) the nature and extent of land uses other than active farming or forestry within the district and in areas adjacent thereto; (4) local developmental patterns and needs; (5) the Comprehensive Plan and, if applicable, the zoning regulations; (6) the environmental benefits of retaining the lands in the district for agricultural and forestal uses; and (7) any other matter which may be relevant. The Commission and the Board also must consider the recommendation of the County's Agricultural and Forestal District Advisory Committee.
- Reviewing a district: Virginia Code § 15.2-4307 provides that the Commission must include in its recommendation the potential effect of the district and proposed modifications upon the County's planning policies and objectives.

D. Jurisdictional areas

- Nature of the Matter:* The areas that are eligible to receive public water or sewer service, or both, are known as the jurisdictional areas. Jurisdictional areas are established and expanded by the Board of Supervisors. These are policy decisions to allow public water and sewer services to be provided in a manner that can be supported by the utility's (the Rivanna Water and Sewer Authority) physical and financial capabilities. *Comprehensive Plan, page 12.29.* The extent of the jurisdictional areas generally follows the Development Area boundaries. *Comprehensive Plan, page 12.29.*
- Commission Role:* None.
- Board Role:* Action on whether to extend or amend the jurisdictional area boundaries to allow public water, public sewer, or both to a particular area.
- Board Act:* Legislative.
- Considerations:* The single largest growth management tool for the County is the provision of utilities. *Comprehensive Plan, page 13.5.* The Comprehensive Plan observes that the County "has a longstanding commitment to provide public water and sewer service in the Development Areas while not expanding service outside of those areas. Delineation and application of jurisdictional

area boundaries is significant in the encouragement, discouragement, and direction of growth to Development Areas. Strict adherence to the County's utility extension policy is a very strong Comprehensive Plan implementation measure." *Comprehensive Plan, page 13.5*. "The boundaries of the Development Areas are to be followed in delineating jurisdictional areas. Change to these boundaries outside of the Development Areas should only be allowed when: (1) the area to be included is adjacent to existing lines; and (2) public health and/or safety is in danger." *Comprehensive Plan, page 12.30*.



TOWN OF ALTAVISTA
PLANNING COMMISSION
January 3, 2023
AGENDA COVER SHEET

AGENDA ITEM #: 8.2

New Business

Title: Review of Planning Commission Bylaws, Rules of Procedure, and Roberts Rules of Order Cheat Sheet

Staff Resource: Sharon D. Williams, AICP, Community Development Director

Action(s):

Review the proposed changes and provide recommendations to staff.

Explanation:

Changes are being recommended to the Planning Commission's Bylaw

Background:

Staff is recommending a change to the Planning Commission Bylaws to reflect the way the meeting are currently conducted. It also updates the title of the Community Development Director.

Funding Source(s):

N/A

Attachments: *(click item to open)*

[*Bylaws - PC - 2023.pdf*](#)

[*Rules of Procedure.pdf*](#)

[*ROBERTS_RULES_CHEAT_SHEET.pdf*](#)

PLANNING COMMISSION - BYLAWS

Bylaws Town of Altavista, Virginia Planning Commission

Sec. 58-31. Establishment.

There is hereby established a planning commission, which may be referred to as the "commission." (Code 1968, § 16-2)

Sec. 58-32. Composition; appointment; term; vacancies; salaries.

- (a) The commission shall consist of a minimum of five members and a maximum of seven members. They shall consist of at least four members and up to six members at large and one member from the town council and shall be appointed by the town council. One member may be a member of the administrative branch of government of the town. They shall be residents of the town qualified by knowledge and experience to make decisions on questions of community growth and development; provided, however, that at least one-half of the members so appointed shall be owners of real property. The term of the member from the town council, and from the administrative branch, if there are any, shall be coextensive with the term of office to which he or she has been elected or appointed, unless the town council, at the first regular meeting each year, appoints others to serve as their representatives. Appointments of members shall be for staggered terms of four years each, unless the town council shall desire to establish different terms of office. Vacancies shall be filled by appointment for the unexpired term only. Members may be removed for malfeasance in office.
- (b) The members of the commission, as now constituted or hereafter appointed, may receive a salary to be fixed by the town council by resolution, ~~not to exceed \$300.00 per annum for each member. The salary of the members of the commission, if any, when fixed, shall so continue until changed by the council, and shall be payable out of the treasury of the town in monthly installments.~~ (Code 1968, § 16-3)

Sec. 58-33. Meetings.

- (a) The commission shall fix the time for holding regular meetings, but it shall meet at least every two months. Special meetings of the commission may be called by the chairperson or by two members upon written request to the secretary. The secretary shall mail, email, or hand deliver to all members, at least five days in advance of a special meeting, a written notice fixing the time and place of the meeting and the purpose thereof. Written notice of a special meeting is not required if the time of the special meeting has been fixed at a regular meeting, or if all members are present at the special meeting or file a written waiver of notice. (Code 1968, § 16-4)

(b) Proposed Order of Business

- (1) Call to Order

PLANNING COMMISSION - BYLAWS

- (2) Roll Call Invocation & Pledge of Allegiance
- ~~(3) — Determination of a Quorum~~
- (4) (3) Approval of Agenda
- (5) (4) Approval of Minutes
- (6) (5) Public Expression
- (7) (6) Application Requests and Petitions (public hearings) Public Hearings
- (8) (7) Reports by any Committees
- ~~(9) Report of the Planning/Zoning Administrator~~
- ~~(10) Report of the Special Sub-committees~~
- ~~(11) (8) Unfinished Business~~
- ~~(12) (9) New Business~~
- (10) Matters from the Planning Commission
- (11) Matters from Staff
- ~~(13) (12) Adjournment~~

Sec. 58-34. Quorum; majority vote.

A majority of the members shall constitute a quorum, and no action of the commission shall be valid unless authorized by a majority vote of those present and voting. (Code 1968, § 16-5)

Sec. 58-35. Officers and employees; expenditures, rules and records; special surveys.

- (a) The commission shall elect, as a first order of business at the January meeting, from the appointed members a chairperson and a vice-chairperson, whose terms shall be for one year. The commission may:
 - (1) Create and fill such other offices as it awards necessary;
 - (2) Appoint such employees and staff as it deems necessary for its work; and
 - (3) Contract with consultants for such services as it requires.

The expenditures of the commission, exclusive of gifts or grants, shall be within the amounts appropriated for such purpose by the town council.

- (b) The commission shall adopt rules for the transaction of business and shall keep a record of its transactions, which shall be a public record. Upon request of the commission, the town council or other public officials may, from time to time, for the purpose of special surveys under the direction of the commission, assign or detail to it any members of the staffs of town administrative departments, or the town council or other public official may direct any such department employee to make for the commission special surveys or studies requested by the commission. (Code 1968, § 16-6)

PLANNING COMMISSION - BYLAWS

Sec. 58-36. Duties.

To effectuate Code of Virginia, §§ 15.2-2200--15.2-2327, the planning commission shall:

- (1) Exercise general supervision of, and make regulations for, the administration of its affairs;
- (2) Prescribe rules pertaining to its investigations and hearings;
- (3) Supervise its fiscal affairs and responsibilities, under rules and regulations as prescribed by the town council;
- (4) Keep a complete record of its proceedings; and be responsible for the custody and preservation of its papers and documents;
- (5) Make recommendations and an annual report to the Town Council concerning the operation of the Commission and the status of planning within its jurisdiction;
- (6) Prepare, publish and distribute reports, ordinances and other material relating to its activities;
- (7) Prepare and submit an annual budget in the manner prescribed by the town council; and
- (8) If deemed advisable, establish advisory committees. (Code 1968, § 16-7)

Section 58-37. Public Hearings.

- (a) In addition to those required by law, the Commission may hold public hearings on any matter, which is deemed to be in the public interest.
- (b) Notice of a public hearing shall be published once a week for two successive weeks (at least one [1] week apart) in a newspaper of general circulation in the area, with not less than six (6) days elapsing between the first and second publication. Such notice shall specify the time and place of hearing, which cannot be less than five (5) nor more than twenty-one (21) days after the second newspaper advertisement.
- (c) The chairman or designee shall summarize the matter before the Commission, allow interested parties to speak, and accept written statements and other documentation pertinent to the matter being addressed. All speakers must identify themselves by name and address before speaking. Speakers will be limited to five (5) minutes, unless extended by the approval of a majority of the Commission.
- (d) ~~In an effort to~~ assure the maximum available time to each public speaker, the Commission should not interrupt the speaker except to ask informational questions.
- (e) An accurate, written record shall be made of the proceedings of the public hearing and maintained as part of the Commission's files.
- (f) Once the Public Hearing is closed the Planning Commission will discuss the matter and agree, by consensus, on a recommendation to be presented to Council. The Planning Commission shall have a written recommendation, when appropriate, to present to the Altavista Town Council.

Section 58-38. Committee(s)

- (a) Special committees may be appointed by the chairman or designee for purposes and terms approved by majority vote of the Commission.

PLANNING COMMISSION - BYLAWS

- (b) The chairman shall be an ex-officio member of every committee.
- (c) Committees may request the participation of the ~~Planning and Zoning~~ Community Development Director and/or the Town Attorney at committee meetings.
- (d) All committees will present a report to the commission.

Section 58-39. Reports to Council

- (a) The Planning Commission shall prepare an annual report to be presented to Council, which shall include the Commission's goals for the upcoming year. The report will be presented to Council at the first regularly scheduled meeting of each year.
- (b) The Planning Commission shall review, annually, the Comprehensive Plan, track progress towards meeting the goals and objectives contained in the plan and determine if development is accordance with the plan. The Commission shall prepare an annual report to be presented to Council at their first meeting of each year.

Section 58-40. Rules of Order

Roberts Rules of Order, Revised, shall be the accepted Parliamentary law for this organization.

Section 58-41. Amendments

These bylaws may be amended by a majority vote of the entire membership after thirty (30) days prior notice.

These bylaws were adopted by the Planning Commission on the ___ day of _____, 2023 by a vote of _____ to ____.

**RULES OF ORDER
FOR THE TOWN OF ALTAVISTA
PLANNING COMMISSION 2023**

PURPOSE

These rules of procedure were designed and adopted for the benefit and convenience of the Altavista Planning Commission. Their purpose is to help the Planning Commission conduct its affairs in a timely and efficient manner. When the Planning Commission rules of procedure do not address a procedural issue, the Planning Commission may consider the most recent edition of *Robert's Rules of Order* for guidance.

GENERAL RULES

1. The rules contained in Roberts Rules of Order shall be the parliamentary authority in all cases not covered by these Rules of Order. The Town Attorney shall serve as the Parliamentarian. In their absence, the Director of Community Development shall serve as the Parliamentarian.
2. The Chair and Vice Chair shall be elected at the January meeting of each calendar year to serve a one-year term with re-election permitted. The Chairman shall be responsible for conducting the meetings and shall rule on the interpretation of the Rules of Order. The Vice Chairman shall preside in the absence of the Chairman.
3. The Community Development Director shall be the Secretary.

MEETINGS

1. Regular meetings of the Commission shall be held in the Town Council Chambers of the J. R. "Rudy" Burgess Town Hall (510 7th Street), or other location as designated by the Commission or Director of Community Development on the first Monday of each month. If such meeting falls on any legal holiday, then it shall be held on another day designated by the Commission.
2. The time for regular meetings shall be 5:00 p.m. unless otherwise directed by the Commission. Public hearings shall be advertised for 5:00 p.m. If most of the Commission fails to attend within fifteen after the time appointed for any meeting, the Secretary shall enter into the minute book the names of the members present and note the adjournment for want of a quorum.
3. Workshop meetings of the Commission shall be held in the Large Conference Room of Town Hall, or at another location as designated by the Director of Community Development and shall be called on an as-needed basis.
4. The time for workshop meetings shall be posted to the Town's website and social media unless otherwise directed by the Commission.
5. Meetings shall not extend beyond ____p.m. unless extended by resolution of the Commission.

6. If the Chair, or Vice-Chair, if the Chair is unable to act, finds and declares that the weather or other conditions are such that it is hazardous for Commission members and the public to attend a regular meeting, the meeting shall be postponed for a period of two (2) weeks to the same time; however, if the postponement would be a town holiday or the day before a town holiday, the meeting shall be postponed two (2) days before the town holiday. Commission members and the media will be notified as promptly as possible, and notice will be posted on the front doors of Town Hall and on the Town's website and social media pages. All hearings and other matters previously advertised will be conducted at the continued meeting, and no further advertisement or notice is required. The Chair may also elect to cancel the meeting if there are no matters before the Commission.
7. Special meetings of the Commission and Commission work sessions to discuss planning and land use issues may be called by the Commission or by the Chairman with a time and location designated at the time of the call of such meetings. All parties having requested notification of meetings pursuant to the Virginia Freedom of Information Act shall be notified of any special meeting.
8. All questions submitted to the Commission shall be determined by oral vote of the majority of the members voting on any such questions. After a tie vote on a motion to approve or deny, the matter shall be deferred without motion to the next scheduled monthly meeting of the Commission for further consideration and vote. If the vote remains tied after the second meeting, the matter is defeated.
9. A motion to reconsider may be made no later than the succeeding regularly scheduled monthly meeting of the Commission. Such motion can only be made by a member who voted with the majority when the matter was first decided.

CONDUCT OF MEETINGS

1. Members shall address only the Chair or address each other through the Chair. A member must be recognized by the Chair before he shall proceed. Upon being recognized, a member shall not be interrupted during the time allowed, except when a point of order is called or upon being requested to yield the floor by another member.
2. The applicant or their agent should sit in the front rows nearest the lectern to be available to discuss/answer questions concerning their application.
3. Individuals interested in addressing the Commission or staff shall only do so at the lectern for their comments to be recorded as part of the record of the meeting, and shall only address the Commission, not the audience or the applicants. Comments of individuals shall be limited to three (3) minutes per person unless additional time is granted by the Chair.
4. Neighborhoods should select a spokesperson to present their comments. The spokesperson should ask all persons supporting his or her comments to stand in lieu of repetitive comments.
5. Successive speakers for either the proponents or the opponents should address different issues and should not be repetitive.

REMOTE PARTICIPATION

1. It is the policy of the Planning Commission that individual Commission members may participate in meetings of Planning Commission, to ensure the business of the public may be conducted, by electronic communication means from a remote location that is not open to the public only as permitted by Virginia Code § 2.2-3708.1, as amended, and in compliance with this policy. This policy shall apply strictly and uniformly to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.
2. An individual member may participate from a remote location only if a quorum (3 members) of the Planning Commission is physically assembled at the primary meeting location and the Commission has arranged for the voice of the remote participant to be heard by all persons at the primary meeting location.
3. Remote participation in a meeting due to an emergency or personal matter may be approved only if, before noon on the day of the meeting, the requesting member notifies the Chair of the Commission that such member is unable to attend the meeting due to an emergency or personal matter and identifies with specificity the nature of the emergency or personal matter.
4. Remote participation in a meeting due to a temporary or permanent disability or other medical condition may be approved only if, before noon on the day of the meeting, the requesting member notifies the Chair of the Commission that such member is unable to attend the meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance.
5. As required by law, in the event of any such participation by a member from a remote location, the Commission shall record in its minutes the specific nature of the emergency, personal matter, temporary or permanent disability or other medical condition, and the location from which the Commission member participated remotely.
6. As required by law, remote participation shall be limited in each calendar year for each individual member to two (2) meetings of the Commission.
7. Remote attendance shall only be permitted for regularly monthly meetings and shall not be permitted for attendance at workshop meetings.
8. An individual member's request for participation from a remote location under this policy shall be considered approved upon communicating the request to the Chair of the Commission, pending review by the Town Attorney for compliance with the Code of Virginia and this policy. If a member's participation from a remote location is disapproved because such participation would violate this policy, such disapproval shall be recorded in the minutes with specificity.

AGENDAS

1. The following is the standard regular meeting agenda:

- a. Call to Order (5:00 p.m.)
- b. Invocation & Pledge of Allegiance
- c. Approval of Agenda
- d. Approval of Minutes
- e. Public Expression
- f. Public Hearings
- g. Committee Reports
- h. Unfinished Business
- i. New Business
- j. Commission Matters and Miscellaneous
- k. Matters from staff
- l. Adjournment

2. Matters may be placed on the Agenda by Resolution of the Commission, by notification to the Secretary by any member of the Commission, by request of Town Council, or by the Community Development Director.

a. Matters submitted within the prescribed filing deadline are automatically added to the agenda in order of date/time of application. The Director shall have the authority to delay the placement of an item on the Commission agenda if:

1. The application is not, in the opinion of the Planning Director, complete; or
2. In the case of Applicant-initiated deferral requests as follows:

a. For first submissions (those that have not previously been reviewed by the Planning Commission):

i. If the deferral request is made by the Applicant prior to the first Public Hearing advertisement, the Community Development Director has the authority to place the case on a subsequent meeting agenda.

ii. If the deferral request is made by the Applicant after the first Public Hearing advertisement, the deferral request must be approved or denied by the Planning Commission.

b. For cases that have been previously reviewed by the Commission and have either been deferred by the Commission or remanded to Town Council, all deferral requests must be approved or denied by the Planning Commission.

3. Agendas and information to be discussed shall be distributed to each member approximately five days prior to the meeting.

COURTESY

Those persons coming before the Commission shall be extended every courtesy by members of the Commission. Visitors at Commission meetings will be asked to extend the same courtesy. The Chair of the Commission shall determine when the proper courtesies are not being demonstrated.

ROBERTS RULES CHEAT SHEET

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Adjourn	"I move that we adjourn"	No	Yes	No	No	Majority
Recess	"I move that we recess until..."	No	Yes	No	Yes	Majority
Complain about noise, room temp., etc.	"Point of privilege"	Yes	No	No	No	Chair Decides
Suspend further consideration of something	"I move that we table it"	No	Yes	No	No	Majority
End debate	"I move the previous question"	No	Yes	No	No	2/3
Postpone consideration of something	"I move we postpone this matter until..."	No	Yes	Yes	Yes	Majority
Amend a motion	"I move that this motion be amended by..."	No	Yes	Yes	Yes	Majority
Introduce business (a primary motion)	"I move that..."	No	Yes	Yes	Yes	Majority

The above listed motions and points are listed in established order of precedence. When any one of them is pending, you may not introduce another that is listed below, but you may introduce another that is listed above it.

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Object to procedure or personal affront	"Point of order"	Yes	No	No	No	Chair decides
Request information	"Point of information"	Yes	No	No	No	None
Ask for vote by actual count to verify voice vote	"I call for a division of the house"	Must be done before new motion	No	No	No	None unless someone objects
Object to considering some undiplomatic or improper matter	"I object to consideration of this question"	Yes	No	No	No	2/3
Take up matter previously tabled	"I move we take from the table..."	Yes	Yes	No	No	Majority
Reconsider something already disposed of	"I move we now (or later) reconsider our action relative to..."	Yes	Yes	Only if original motion was debatable	No	Majority
Consider something out of its scheduled order	"I move we suspend the rules and consider..."	No	Yes	No	No	2/3
Vote on a ruling by the Chair	"I appeal the Chair's decision"	Yes	Yes	Yes	No	Majority

The motions, points and proposals listed above have no established order of preference; any of them may be introduced at any time except when meeting is considering one of the top three matters listed from the first chart (Motion to Adjourn, Recess or Point of Privilege).

PROCEDURE FOR HANDLING A MAIN MOTION

NOTE: Nothing goes to discussion without a motion being on the floor.

Obtaining and assigning the floor

A member raises hand when no one else has the floor

- The chair recognizes the member by name

How the Motion is Brought Before the Assembly

- The member makes the motion: *I move that (or "to") ...* and resumes his seat.
- Another member seconds the motion: *I second the motion* or *I second it* or *second*.
- The chair states the motion: *It is moved and seconded that ... Are you ready for the question?*

Consideration of the Motion

1. Members can debate the motion.
2. Before speaking in debate, members obtain the floor.
3. The maker of the motion has first right to the floor if he claims it properly
4. Debate must be confined to the merits of the motion.
5. Debate can be closed only by order of the assembly (2/3 vote) or by the chair if no one seeks the floor for further debate.

The chair puts the motion to a vote

1. The chair asks: *Are you ready for the question?* If no one rises to claim the floor, the chair proceeds to take the vote.
2. The chair says: *The question is on the adoption of the motion that ... As many as are in favor, say 'Aye'.* (Pause for response.) *Those opposed, say 'Nay'.* (Pause for response.) *Those abstained please say 'Aye'.*

The chair announces the result of the vote.

1. *The ayes have it, the motion carries, and ...* (indicating the effect of the vote) or
2. *The nays have it and the motion fails*

WHEN DEBATING YOUR MOTIONS

1. Listen to the other side
2. Focus on issues, not personalities
3. Avoid questioning motives
4. Be polite

HOW TO ACCOMPLISH WHAT YOU WANT TO DO IN MEETINGS

MAIN MOTION

You want to propose a new idea or action for the group.

- After recognition, make a main motion.
- Member: "Madame Chairman, I move that _____."

AMENDING A MOTION

You want to change some of the wording that is being discussed.

- After recognition, "Madame Chairman, I move that the motion be amended by adding the following words _____."
- After recognition, "Madame Chairman, I move that the motion be amended by striking out the following words _____."
- After recognition, "Madame Chairman, I move that the motion be amended by striking out the following words, _____, and adding in their place the following words _____."

REFER TO A COMMITTEE

You feel that an idea or proposal being discussed needs more study and investigation.

- After recognition, "Madame Chairman, I move that the question be referred to a committee made up of members Smith, Jones and Brown."

POSTPONE DEFINITELY

You want the membership to have more time to consider the question under discussion and you want to postpone it to a definite time or day, and have it come up for further consideration.

- After recognition, "Madame Chairman, I move to postpone the question until _____."

PREVIOUS QUESTION

You think discussion has gone on for too long and you want to stop discussion and vote.

- After recognition, "Madam President, I move the previous question."

LIMIT DEBATE

You think discussion is getting long, but you want to give a reasonable length of time for consideration of the question.

- After recognition, "Madam President, I move to limit discussion to two minutes per speaker."

POSTPONE INDEFINITELY

You want to kill a motion that is being discussed.

- After recognition, "Madam Moderator, I move to postpone the question indefinitely."

POSTPONE INDEFINITELY

You are against a motion just proposed and want to learn who is for and who is against the motion.

- After recognition, "Madame President, I move to postpone the motion indefinitely."

RECESS

You want to take a break for a while.

- After recognition, "Madame Moderator, I move to recess for ten minutes."

ADJOURNMENT

You want the meeting to end.

- After recognition, "Madame Chairman, I move to adjourn."

PERMISSION TO WITHDRAW A MOTION

You have made a motion and after discussion, are sorry you made it.

- After recognition, "Madam President, I ask permission to withdraw my motion."

CALL FOR ORDERS OF THE DAY

At the beginning of the meeting, the agenda was adopted. The chairman is not following the order of the approved agenda.

- Without recognition, "Call for orders of the day."

SUSPENDING THE RULES

The agenda has been approved and as the meeting progressed, it became obvious that an item you are interested in will not come up before adjournment.

- After recognition, "Madam Chairman, I move to suspend the rules and move item 5 to position 2."

POINT OF PERSONAL PRIVILEGE

The noise outside the meeting has become so great that you are having trouble hearing.

- Without recognition, "Point of personal privilege."
- Chairman: "State your point."
- Member: "There is too much noise, I can't hear."

COMMITTEE OF THE WHOLE

You are going to propose a question that is likely to be controversial and you feel that some of the members will try to kill it by various maneuvers. Also you want to keep out visitors and the press.

- After recognition, "Madame Chairman, I move that we go into a committee of the whole."

POINT OF ORDER

It is obvious that the meeting is not following proper rules.

- Without recognition, "I rise to a point of order," or "Point of order."

POINT OF INFORMATION

You are wondering about some of the facts under discussion, such as the balance in the treasury when expenditures are being discussed.

- Without recognition, "Point of information."

POINT OF PARLIAMENTARY INQUIRY

You are confused about some of the parliamentary rules.

- Without recognition, "Point of parliamentary inquiry."

APPEAL FROM THE DECISION OF THE CHAIR

Without recognition, "I appeal from the decision of the chair."

Rule Classification and Requirements

Class of Rule	Requirements to Adopt	Requirements to Suspend
Charter	Adopted by majority vote or as proved by law or governing authority	Cannot be suspended
Bylaws	Adopted by membership	Cannot be suspended
Special Rules of Order	Previous notice & 2/3 vote, or a majority of entire membership	2/3 Vote
Standing Rules	Majority vote	Can be suspended for session by majority vote during a meeting
Modified Roberts Rules of Order	Adopted in bylaws	2/3 vote



TOWN OF ALTAVISTA
PLANNING COMMISSION
January 3, 2023
AGENDA COVER SHEET

AGENDA ITEM #: 8.3

New Business

**Title: Planning Commission Statement of Ethical Principals and Government Ethics -
Albermarle County Land Use Law Handbook**

Staff Resource: Sharon D. Williams, AICP, Community Development Director

Action(s):

Adopt the Statement of Ethical Principals.

Explanation:

Staff is recommending that the Planning Commission adopt a Code of Ethics.

Background:

The American Institute of Certified Planners (AICP) recently updated its Code of Ethics. They have recommended that Planning Commissions adopt a Code of Ethics as well. Staff has drafted a code for the Planning Commission's consideration.

Staff has also provided Chapter 30 of the Albermarle County Land Use Law Handbook. This guide, created for the benefit of their boards and commissions is used throughout the Commonwealth as a resource for elected and appointed officials and local government staff. This guide provides an explanation of conflict of interest prohibited gifts, and impermissible contractual relationships.

Funding Source(s):

N/A

Attachments: *(click item to open)*

[*PC Code of Ethical Principals 2023.pdf*](#)

[*Albermarle Ethics in Government.pdf*](#)

Planning Commission Statement of Ethical Principals

The Town of Altavista Planning Commission understands the planning process must continually pursue and faithfully serve the public interest. As such, it has adopted a Statement of Ethical Principals which guides and inspires ethical decision-making for the Planning Commission when faced with controversial or difficult choices. It will:

A. Serve the public interest.

1. Recognize the rights of citizens to participate in planning decisions;
2. Strive to give citizens (including those who lack formal organization or influence) full, clear and accurate information on planning issues and the opportunity to have a meaningful role in the development of plans and programs;
3. Strive to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of disadvantaged groups and persons;
4. Assist in the clarification of community goals, objectives and policies in plan-making;
5. Ensure that reports, records and any other non-confidential information which is, or will be, available to decision makers is made available to the public in a convenient format and sufficiently in advance of any decision;
6. Strive to protect the integrity of the natural environment and the heritage of the built environment; and
7. Pay special attention to the interrelatedness of decisions and the long-range consequences of present actions.

B. Strive to achieve high standards of integrity and proficiency so that public respect for the planning process will be maintained.

1. Exercise fair, honest and independent judgment in their roles as decision makers and advisors;
2. Make public disclosure of all "personal interests" they may have regarding any decision to be made in the planning process in which they serve, or are requested to serve, as advisor or decision maker;
3. Define "personal interest" broadly to include any actual or potential benefits or advantages that they, a spouse, family member or person living in their household might directly or indirectly obtain from a planning decision;
4. Abstain completely from direct or indirect participation as an advisor or decision maker in any matter in which they have a personal interest, and leave any chamber in which such a matter is

under deliberation, unless their personal interest has been made a matter of public record; their employer, if any, has given approval; and the public official, public agency or court with jurisdiction to rule on ethics matters has expressly authorized their participation;

5. Seek no gifts or favors, nor offer any, under circumstances in which it might reasonably be inferred that the gifts or favors were intended or expected to influence a participant's objectivity as an advisor or decision maker in the planning process;
6. Not participate as an advisor or decision maker on any plan or project in which they have previously participated as an advocate;
7. Serve as advocates only when the client's objectives are legal and consistent with the public interest;
8. Not participate as an advocate on any aspect of a plan or program on which they have previously served as advisor or decision maker unless their role as advocate is authorized by applicable law, agency regulation, or ruling of an ethics officer or agency; such participation as an advocate should be allowed only after prior disclosure to, and approval by, their affected client or employer; under no circumstance should such participation commence earlier than one year following termination of the role as advisor or decision maker;
9. Not use confidential information acquired in the course of their duties to further a personal interest;
10. Not disclose confidential information acquired in the course of their duties except when required by law, to prevent a clear violation of law or to prevent substantial injury to third persons; provided that disclosure in the latter two situations may not be made until after verification of the facts and issues involved and consultation with other planning process participants to obtain their separate opinions;
11. Not misrepresent facts or distort information for the purpose of achieving a desired outcome;
12. Not participate in any matter unless adequately prepared and sufficiently capacitated to render thorough and diligent service; and
13. Respect the rights of all persons and not improperly discriminate against or harass others based on characteristics which are protected under civil rights laws and regulations.

Adopted: _____

Chapter 30

Ethics in Government: Conflicts of Interest, Prohibited Gifts, and Impermissible Contractual Relationships

30-100 Introduction

Our system of government depends in large part on the public maintaining the highest trust in their government officials. *2005 WL 1104519 (Va. Op. Atty. Gen.)*. The conduct and character of public officers and employees is of particular concern to state and local governments because it is chiefly through that conduct and character that the government's reputation is derived. *2005 WL 1104519, supra*. Like the Freedom of Information Act, public officers and employees must be familiar with the State and Local Government Conflict of Interests Act (*Virginia Code § 2.2-3100 et seq.*) ("COIA"). A public officer is a person who holds a "public office." "A public office is a position created by law, with powers and duties specified by the constitution or statute. A frequent characteristic is a fixed term, although not essential." *1983-84 Va. Op. Atty. Gen. 435*. The members of the governing body, the chief administrative officer, the locality's attorney, and similar officers are examples of a locality's public officers.

The purpose of COIA is to assure the residents of the state that the judgment of public officers and employees will not be compromised or affected by inappropriate conflicts. *Virginia Code § 2.2-3100*. The Attorney General has stated that COIA provides minimum rules of ethical conduct for state and local government officers and employees and contains three general types of restrictions and prohibitions: (1) it details certain types of conduct that are improper for public officers and employees; (2) it restricts the ability of public officers and employees to have personal interests in certain contracts with their own or other governmental agencies; and (3) it restricts the participation of public officers and employees in transactions of their governmental agencies in which they have a personal interest. *2014 WL 200906 (Va. Op. Atty. Gen.)*.

Summary of the Key Elements of the State and Local Government Conflicts of Interest Act

- COIA applies to public officials having a *personal interest in a transaction* or a *personal interest in a contract*.
- A personal interest in a transaction arises from the public official's, or an immediate family member's, ownership of property or interest in a business, income, or by representing or providing services to a client who has a pending transaction.
- A public official having a personal interest in a transaction must *disclose* that interest in the manner required by COIA; provided that a personal interest in a transaction that affects the public generally need not be disclosed.
- A public official having a personal interest in a transaction is *disqualified* from participating in the transaction if the transaction applies solely to property or a business in which the public official has a personal interest or if no express exception allowing participation applies.
- A public official having a personal interest in a transaction *may participate* in the transaction *after disclosing* the personal interest if one of these common exceptions apply:
 - The public official is a member of a business, profession, occupation, or *group of three or more* persons, the members of which are affected by the transaction.
 - The party to the transaction is a client of the public official's firm but the public official *does not personally represent or provide services* to the client.
- The acceptance of money, gifts and honoraria is prohibited by COIA.
- Public officials believing they may have a conflict of interest should consult with the locality's attorney and either obtain a written opinion from the locality's attorney or from the Commonwealth's Attorney, after providing a full disclosure of the facts; if the public official is later charged with a knowing violation, the locality's attorney's opinion is evidence that the public official did not knowingly violate COIA, the Commonwealth's Attorney's opinion immunizes the public official from prosecution.
- A public official may not have interests in contracts with the locality or a related agency, with very limited exceptions.
- A knowing violation of COIA is either a class 1 or class 3 misdemeanor, depending on the violation, and constitutes malfeasance in office; possible penalties include criminal fines and penalties and forfeiture of office.

COIA is a very technical law and the reader working in local government is advised to consult with the locality's attorney for an in-depth review of the law and to receive guidance on how to proceed if and when a conflict of interest exists or refer the reader to the Commonwealth's Attorney as further explained in section 30-610. A knowing violation of COIA is a misdemeanor (*Virginia Code § 2.2-3120*) and constitutes malfeasance in office (*Virginia Code § 2.2-3122*). In addition to criminal fines and penalties, a knowing violation may result in forfeiture of office or employment (*Virginia Code § 2.2-3122*), the forfeiture of the value derived from the violation, and civil penalties in the amount of the value derived from the violation (*Virginia Code § 2.2-3124*).

30-200 Definitions of key terms

A conflict of interest will be found to exist under COIA if the public officer or employee (collectively, "public official") has a *personal interest in the transaction*.

30-210 "Personal interest"

A "personal interest" is a *financial benefit or liability* accruing to a *public official* or to a *member of their immediate family*. *Virginia Code § 2.2-3101*. A member of the *immediate family* is a spouse and any other person who resides in the same household as the officer or employee and who is a dependent of the officer or employee. *Virginia Code § 2.2-3101*. A *personal interest* exists in any of the following situations:

- Ownership in a business: Ownership in a business if the ownership interest exceeds three percent of the total equity of the business.
- Income from property or business: Annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business.
- Salary, compensation, benefits paid or provided by business or governmental agency: Salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually.
- Ownership of property: Ownership of real or personal property, if the interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property.
- Personal liability on behalf of business: Personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business.
- Option for ownership of business or real property: An option for ownership of a business or real or personal property if the ownership interest will consist of ownership in a business exceeding three percent of the total equity of the business or real or personal property if the interest exceeds \$5,000 in value.

A *business* is a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit. *Virginia Code § 2.2-3101*. A public official with a personal interest in a business also has a personal interest in any related business entity. A personal interest exists in a parent-subsidiary relationship when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation. A personal interest exists in an affiliated business if one business has a controlling ownership interest in the other, if a controlling owner in one business is also a controlling owner in the other, or if there is shared management or control between the two businesses.

COIA requires public officials to be keenly aware of the business interests of their partners and the ownership interests of any businesses in which they have a personal interest.

30-220 “Transaction”

A “transaction” is any matter considered by the governmental or advisory agency, whether in a committee, subcommittee, or other entity of the agency or before the agency itself, on which official action is taken or contemplated. *Virginia Code § 2.2-3101*. Thus, under COIA, a *transaction* is any matter before the locality for which official action will or may be taken (*e.g.*, review and approval of any type of application) by the governing body, the planning commission, or any other public body, or any public officer or employee.

For example, in the realm of land use approvals, the types of matters that would be a *transaction* under COIA range from an applicant-initiated zoning map amendment down to a building permit, and everything in between. In the situation where a public official has provided representation or services, the transaction need not necessarily be the matter for which the public official or member of their immediate family provided the representation or services to the client. *See section 30-400*.

COIA applies to a public official only to the extent that the transaction is or might be considered by the governmental agency or other public body for which the public official is a member. For example, COIA does not disqualify a member of the board of zoning appeals (“BZA”) from representing a client in a zoning map amendment before the planning commission or the governing body because the BZA would never take official action on the zoning map amendment. Members of the governing body must be much more cautious because the governing body represents the locality as a whole, and it may consider almost *every matter* may at some point.

30-230 “Personal interest in a transaction”

A “personal interest in a transaction” is the personal interest of a public official in any matter considered by their agency. *Virginia Code § 2.2-3101*. A personal interest in a transaction exists when a public official or a member of his immediate family has a personal interest in property or a business, or represents an individual or business and the property, business or represented individual or business: (1) is the subject of the transaction; or (2) may realize a reasonably foreseeable direct or indirect benefit or detriment because of the action of the agency considering the transaction. *Virginia Code § 2.2-3101*.

30-300 Applicable rules when a personal interest in a Transaction Exists

If a personal interest in a transaction exists, a public official is not automatically prohibited from participating in the transaction. The table below provides a summary of several typical situations when a public official will need to determine whether a conflict of interest exists under COIA, and whether disclosure or disclosure and disqualification are required.

Situations When a Public Official Must Determine Whether a Conflict of Interest Exists		
Relationship	Personal Interest	Disclose and Disqualify or Merely Disclose
Official has an interest in a business	Personal interest if the official’s interest is more than 3% of the total equity of the business	<ul style="list-style-type: none">Disqualified if the transaction applies solely to the business (<i>e.g.</i>, it is the subject of the application) or no other exception appliesMust only disclose if the transaction affects a group of 3 or more (<i>e.g.</i>, neighboring business is the applicant; official’s business is in the neighborhood)
Official receives annual income from ownership in real or personal property or a business	Personal interest if the official’s annual income exceeds, or may be reasonably anticipated to exceed, \$5,000 (<i>e.g.</i> , receives \$11,000 in stock dividends from business)	<ul style="list-style-type: none">Disqualified if the transaction applies solely to the property or business (<i>e.g.</i>, it is the subject of the application) or no other exception applies.Must only disclose if the transaction affects a group of 3 or more (<i>e.g.</i>, neighboring business is the applicant; official’s property or business is in the neighborhood)

Situations When a Public Official Must Determine Whether a Conflict of Interest Exists		
Relationship	Personal Interest	Disclose and Disqualify or Merely Disclose
Official receives salary, other compensation, fringe benefits, or benefits from the use of property paid by business or government	Personal interest if the official's salary, compensation or benefits exceeds, or may be reasonably anticipated to exceed, \$5,000 (<i>e.g.</i> , receives \$15,000 in salary and \$2,000 in fringe benefits from business)	<ul style="list-style-type: none"> Disqualified if the transaction applies solely to the business (<i>e.g.</i>, it is the applicant) or no other exception applies Must only disclose if the transaction affects a group of 3 or more (<i>e.g.</i>, neighboring business is the applicant; official's business is in the neighborhood)
Ownership of real property, not addressed above	Personal interest if the interest in the real property exceeds \$5,000 (<i>e.g.</i> , official owns a house valued at \$400,000)	<ul style="list-style-type: none"> Disqualified if the transaction applies solely to the real property (<i>e.g.</i>, it is the subject of the application) or no other exception applies Must only disclose if the transaction affects a group of 3 or more (<i>e.g.</i>, a neighboring landowner is the applicant; official's real property is in the neighborhood)
Official represents or provides services to applicant	Personal interest by virtue of representation or providing services	<ul style="list-style-type: none"> Disqualified, including where the public official previously represented or provided services to the applicant on the matter, or where the public official currently represents or provides services to the applicant on other matters
Official's firm represents or provides services to applicant	Personal interest by virtue of firm representation or providing services	<ul style="list-style-type: none"> Disclosure (but not disqualification) required if the official never provided services to the applicant Lawyers and other professionals must be aware of ethical restrictions that may still require higher conflict standards

The rules in sections 30-310, 30-320, 30-330, and 30-340 determine whether the public official must disclose the interest and disqualify, or merely disclose the interest.

Disqualification means that the public official may not participate in the discussion leading to a vote or decision. *Virginia Code § 2.2-3112(A)*. Disqualification also means that the public official may neither attend a closed meeting regarding the transaction nor discuss the matter with other governmental officers or employees at any time. *Virginia Code § 2.2-3112(A)*. In other words, the disqualified public official should not have any contact with any other public officials, including staff, regarding the matter that creates the conflict.

A *disclosure* must be in writing and must: (1) identify the transaction involved; (2) state the existence of the interest; and (3) state the full name and address of the business and the address or parcel number for the real property if the interest involves a business or real property. *Virginia Code § 2.2-3115(F)*. The disclosure form must be retained in the public records of the agency for five years in the office of the administrative head of the public body. *Virginia Code § 2.2-3115(F)*. Proper disclosure by a public official includes affirmatively stating that even though they have a personal interest in the transaction, they can participate in the transaction fairly, objectively, and in the public interest. If the public official is unable to make that declaration, they should consider whether it is appropriate not to participate in the matter to avoid an appearance of impropriety, even though they do not have a conflict of interest requiring disqualification under COIA. *See section 30-800 regarding avoiding the appearance of impropriety.*

30-310 Disclosure and disqualification are required if the transaction affects solely the property or business in which the official has a personal interest

A public official is disqualified from participating in a transaction and must publicly disclose that interest if the transaction affects solely the property or business in which the public official has a personal interest. *Virginia Code § 2.2-3112(A)*.

Example 1: A public official is a member of the planning commission whose ownership is 7% of the total equity of a business that has filed an application for a rezoning. The planning commissioner has a personal interest in the transaction, is disqualified from participating in the transaction, and must disclose the interest in writing.

A public official is disqualified from participating in a transaction and must publicly disclose that interest if no exceptions apply. *Virginia Code § 2.2-3112(A)*.

30-320 Disclosure, but not disqualification, is required if the public official is a member of a group of three or more affected by the transaction

A public official may participate in a transaction if they are a member of a business, profession, occupation, or group of three or more persons, the members of which are affected by the transaction, and the interest is disclosed. *Virginia Code § 2.2-3112(B)(1)*.

Example 2: A public official is a member of the board of appeals and the transaction is an appeal of a decision of the building official to be considered by the board of appeals within the member's neighborhood. The appeal could affect the value of the member's property by more than \$5,000. The board of appeals member is a member of a group of three or more persons owning land in proximity to the parcel that is the subject of the transaction and may participate in the transaction if she makes the required disclosure.

The disclosure may be either oral or in writing and must: (1) identify the transaction involved; (2) identify the nature of the personal interest affected by the transaction; (3) state that the public official is a member of a business, profession, occupation, or group the members of which are affected by the transaction; and (4) state that she is able to participate in the transaction fairly, objectively, and in the public interest. *Virginia Code § 2.2-3115(H)*. The recommended practice is to make these disclosures in writing. If the public official is unable to make the statements in the declaration of interest without reservation, they should not participate in the matter and disqualify themselves from participating. The disclosure form must be retained in the public records of the agency for five years in the office of the administrative head of the public body. *Virginia Code § 2.2-3115(H)*.

30-330 Neither disqualification nor disclosure is required if the transaction affects the public generally

A public official may participate in a transaction if it affects the public generally, even though the public official's personal interest, as a member of the public, may also be affected by the transaction. *Virginia Code § 2.2-3112(B)(3)*.

Example 3: A public official is a member of the architectural review board ("ARB") and the ARB is considering architectural guidelines for structures along designated highways. The ARB member owns a parcel along one of the designated highways having a value of \$65,000 and the parcel would be subject to the guidelines. Because the architectural guidelines would apply to the public generally, the ARB member may participate in the transaction.

There are no disclosure requirements for this exception.

30-340 Depending on the circumstances, disclosure, disqualification, or both, may be required when the public official or their firm represents or provides services to a client who is a party to a transaction

In the context of this section, a *personal interest in a transaction* exists when a public official or a member of their immediate family, or a member of their firm *represents* or *provides services* to any individual or business ("client") and the property, business, or individual: (1) is the subject of the transaction; or (2) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. *Virginia Code § 2.2-3101*. Under this situation, a personal interest in a transaction arises *regardless of whether the representation or the*

services pertain to the matter that will or may be considered by the public body.

The terms *represent* and *provide services* are not defined in COIA, so they are given their commonly understood meanings. “Represent” means to “act the part of, in the place of, or for (another person) usu. by legal right,” *Webster’s Third New International Dictionary* (2002), or to “function as the official and authorized delegate or agent” for someone else or to “act as a spokesperson for” someone else. *Webster’s II New Riverside University Dictionary* (1994). Accountants, attorneys, engineers, civil engineers, surveyors, architects, landscape architects, planners and other professionals often represent clients on matters pending before a public body by, among other things, acting as the client’s spokesperson at meetings or in discussions with individual public officials. “Provide services” means to “provide information or other assistance” to another. *Webster’s Third New International Dictionary* (2002) (*definition of “service”*). A wide range of professionals also may provide services to clients who have matters pending before a public body of a locality. Public officials must be aware that a conflict of interest arises by merely providing services to a client, regardless of whether they are also representing the client before the locality.

Because COIA fails to define “represent” or “provide services,” there may be some ambiguity as to when a public official is representing or providing services to a third party, and not merely assisting the third party in their official capacity. At the very least, some kind of working relationship is required between the public official and the client in order for COIA to apply. There may be occasions when the distinctions between providing services and providing information may blur, in which case an attorney should be consulted (*See section 30-600*).

The term “firm” also is not defined in COIA so it is given its commonly understood meaning. “Firm” in this context means “a partnership of two or more persons not recognized as a legal person distinct from the members composing it,” or “a business unit or enterprise.” *Webster’s Third New International Dictionary* (2002). Consistent with the liberal interpretation to be given COIA, the term “firm” covers an array of business entities involving two or more persons.

The following examples illustrate situations when a public official is representing or providing services to a client.

Example 4: A planning commissioner who is an architect and is hired to design a house for a landowner in an abutting locality. The landowner is also an applicant for a special use permit for a commercial use on a separate, commercially zoned parcel in the locality. The commissioner has a personal interest in the transaction and is disqualified from participating in the transaction – the special use permit – because of the architectural services provided to the landowner.

Example 5: A locality’s employee assists a friend in filling out the form for appealing a decision of the zoning administrator to the BZA. The employee assists the friend for no charge. The employee would likely not have a personal interest in the transaction and would not be disqualified under COIA because the assistance was not provided in the context of a working relationship.

The following example illustrates a situation when a public official has a conflict of interest because of the work of a member of the public official’s immediate family.

Example 6: The adult child of a member of the board of supervisors has recently moved back home to save money and has joined a new partnership engaged in land planning, owning 10% of the partnership’s total equity, of which there is little. The adult child is a dependent of the supervisor. The supervisor’s child is assisting another planner in the firm on a proposed comprehensive plan amendment for a proposed project in the county. The supervisor has a personal interest in the transaction – the comprehensive plan amendment – because the child resides in the supervisor’s residence and is a dependent of the supervisor.

Note that the supervisor in Example 6 would also have a personal interest in a transaction on any project in the county proposed by the planning firm’s client, even if the supervisor’s adult child assisted the planner only on a project for the planning firm’s client that would be in an abutting locality.

These rules require public officials to not only be aware of their own activities, but also those of their spouses and other members of the immediate family. Note also that when a personal interest arises from representing or providing services, a *personal interest in a transaction* exists regardless of the amount of income or other financial benefit received for the representation or services, *i.e.*, the \$5,000 income or ownership interest thresholds that apply to other personal interests under COIA do not apply where representation or the provision of services is the issue.

Common Situations Where a Public Official Represents or Provides Services to a Client			
Situation	Disqualification and Disclosure, or Only Disclosure	Key Factors	Other
The public official (or a member of their immediate family) represents or provides services to a client who is a party to the transaction	Disqualification and disclosure	Because the client, not the transaction, is the critical factor, disqualification is required even if: <ul style="list-style-type: none"> The representation or services pertain to a matter outside of the locality The representation or services were provided before any application was filed with the locality The public official is no longer representing or providing services to the client of the firm on the matter 	<ul style="list-style-type: none"> In their <i>public capacity</i>, the public official is disqualified from participating in the transaction In their <i>private capacity</i> as a representative or service provider to a client, the public official is prohibited from discussing the matter with other public officials at any time
The party to the transaction is a client of the public official's (or a member of their immediate family's) firm but the public official does not personally represent or provide services to the client	Disclosure	Because the client, not the transaction, is the critical factor: <ul style="list-style-type: none"> The exception requiring disclosure but not disqualification of the public official does not apply if the public official previously represented or provided services to the client regarding the matter The exception requiring disclosure but not disqualification of the public official does not apply if the public official currently represents the client on other matters 	<ul style="list-style-type: none"> The term "firm" is not defined in COIA; its common meaning is a "commercial partnership of two or more persons" Public officials who are attorneys, architects, engineers, and other professionals should be aware that their profession's own ethical standards may require a higher standard of conduct
Disqualified public employees may represent themselves or family members	Disclosure	Employee may not receive compensation for services	Applies only to employees

30-341 Disclosure and disqualification are required if the public official represents or provides services to a client who is a party to the transaction

Subject to the two circumstances noted in sections 30-342 and 30-343 below, if a public official, or a member of their immediate family, represents or provides services to a client, the public official is disqualified from participating in any transaction pertaining to that client. The following examples illustrate some of the effects of this requirement.

Example 7: A city official who is an engineer is hired to represent an applicant for a subdivision plat and seeks to meet with city staff over the requirements of the city's subdivision ordinance and the possibility of obtaining exceptions to certain requirements. The city official has a personal interest in the transaction and may not have any discussions with city officials or employees and may not meet with city staff to discuss the subdivision or send any writings discussing the subdivision.

Example 8: A county employee's spouse is an attorney who provided legal services to an applicant on a rezoning application before the rezoning application being filed. The county employee has a

personal interest in the transaction – the rezoning application – and must not participate in any way in the review of the application or discuss the rezoning with any county officer or employee. In addition, the county employee has a personal interest in all other transactions pertaining to the applicant that are pending, or that may be pending, before the county.

The consequences arising from these types of conflicts apply whether the public official's role is characterized as being in a public capacity (*e.g.*, as a public official) or in a private capacity (*e.g.*, as a representative or service provider to a private client). In their *public capacity*, the public official is disqualified from participating in the transaction. *Virginia Code § 2.2-3112(A)*. In their *private capacity* as a representative or service provider to a client, the public official is prohibited from discussing the matter with other public officials at any time. *Virginia Code § 2.2-3112(A)*. Prohibited discussions include both oral and written communications, regardless of the formality of the communication, the setting of the discussion, or the substance of the communication itself, so long as it pertains to the matter. The disqualified officials should be notified that they may not discuss the matter with any other public officials and that another person must represent the applicant on the matter in discussions with the locality's staff or in front of any public body of the locality.

Example 9: A member of the board of supervisors is an architect in a solo practice. A bank desires to locate a new branch in the county and hires the supervisor to perform architectural services. Before the site plan is filed with the county, the bank hires an engineering firm to represent the bank, complete and submit an initial site plan, and act as the bank's contact person. The site plan will be reviewed and approved administratively by county staff. By providing services to the bank, the Supervisor may not meet with county staff to discuss the site plan or send any writings discussing the site plan. In addition, the supervisor has a personal interest in all other transactions pertaining to the bank that are pending, or that may be pending, before the county.

In Example 9, if discussions with county staff are going to take place on the matter, the supervisor must have somebody else communicate with staff.

Because a transaction includes any matter on which official action is taken *or contemplated* (*Virginia Code § 2.2-3101*), the transaction, as well as the disqualification and resulting prohibition on participation, may begin long before the matter is officially before the locality (*e.g.*, by filing an application). Thus, a public official who represents or provides services to a client is prohibited from contacting the locality's public officials to discuss ideas, solicit preliminary feedback or the locality's receptiveness to a proposal, or participate in a pre-application conference, even before an application is filed.

2-342 Disclosure, but not disqualification, is required if the party to the transaction is a client of the public official's firm and the public official does not personally represent or provide services to the client

A public official whose firm represents or provides services to a client has a personal interest in a transaction. *Virginia Code § 2.2-3112(B)(2)*. However, if the public official does not personally represent or provide services to the client, only disclosure, but not disqualification, is required. *Virginia Code § 2.2-3112(B)(2)*. If the public official previously represented or provided services to the client regarding the matter, or currently represents the client on other matters, the public official is disqualified from participating in the transaction. In addition, recall that the representation or services provided to a client by a member of the public official's immediate family is imputed to the public official, so even though the public official did not personally represent or provide services to the client, the public official is disqualified.

Example 10: A member of the city council is an attorney in a local three-member law firm. A developer is a client of the firm, but the councilor does not personally represent the developer on its special use permit application, never provided services to the developer on the application, and does not represent the developer on any other matters. The councilor must disclose the relationship but is not disqualified from participating in the special use permit matter or any other

matter of the developer when it comes to the city council and may discuss the matter with other city officers or employees.

Example 11: A member of the architectural review board (“ARB”) is an architect in a local four-member architectural firm. A local car dealership desires to update its buildings and the ARB member prepares some preliminary architectural drawings. The project is then assigned to another architect in the firm. Two months later, a site plan amendment is filed with the locality. By previously providing services to the car dealership on the transaction, the ARB member is disqualified from participating in the site plan or any other matter of the car dealership pending before the locality, regardless of whether the filed site plan does not rely on the preliminary architectural drawings prepared by the ARB member.

Attorneys and other professionals should be aware that their own profession’s ethical requirements may require a higher standard of conduct and that compliance with COIA may not satisfy their profession’s standards.

The disclosure may be either oral or in writing and must: (1) identify the transaction involved; (2) state that a party to the transaction is a client of the public official’s firm; (3) state that the public official does not personally represent or provide services to the client and has never done so; and (4) state that the public official is able to participate in the transaction fairly, objectively, and in the public interest. *Virginia Code § 2.2-3115(I)*. Public officials unable to make the statements in the declaration of interest without reservation should not participate in the matter and disqualify themselves from participating in the transaction. The disclosure form must be retained in the public records of the agency for five years in the office of the administrative head of the public body. *Virginia Code § 2.2-3115(I)*.

2-343 Employees who would otherwise be disqualified may represent themselves or a member of their immediate family in the transaction if they receive no compensation

Public employees who have a personal interest in a transaction and would otherwise be disqualified from participating in the transaction may represent themselves or a member of their immediate family in a transaction, provided the employee does not receive compensation for the representation and complies with the applicable disqualification and disclosure requirements of COIA. *Virginia Code § 2.2-3112(C)*. This exception applies only to employees and does not apply to officers.

30-400 Prohibited interests in contracts

COIA prohibits members of a locality’s governing body and all other public officials and employees from having certain interests in the contracts of the locality.

30-410 Members of governing bodies

Virginia Code § 2.2-3107 prohibits *members of governing bodies* from having a personal interest in any contract with the governing body, any governmental agency that is a component part of the locality and subject to the control of the governing body, or any contract other than any governmental agency if the governing body appoints a majority of its members to the second governmental agency.

There are three exceptions pertaining to: (1) a contract of employment if the member of the governing body was employed by the locality before July 1, 1983 in accordance with the former Conflict of Interests Act or the employment began before the member of the governing body joined the governing body; (2) a contract for the sale of goods or services by a governmental agency at uniform prices available to the public; and (3) a contract awarded to a member of the governing body as a result of competitive sealed bidding, subject to certain restrictions and requirements.

30-420 All other officers and employees

Virginia Code § 2.2-3109 prohibits *all other public officers and employees* of a locality from having a personal interest in any contract with the agency of which they are an officer or employee other than their own contract of employment. In addition, Virginia Code § 2.2-3109 prohibits all other public officers and employees of the locality from having a personal interest in any contract with any other governmental agency that is a component of the locality's government unless the contract is awarded as a result of competitive sealed bidding or competitive negotiation under the Virginia Public Procurement Act, is awarded under a procedure embodying competitive principles as authorized under the Virginia Public Procurement Act, or is awarded after a finding by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

There are numerous exceptions in Virginia Code §§ 2.2-3109, 2.2-3109.1 (contracts related to hospital authorities) and 2.2-3110, including those for: (1) certain personal interests of employees in contracts for goods or services or of employment contracts that accrue to the employee because of a member of their immediate family, provided the employee does not exercise certain control; (2) an officer's or employee's personal interest in an employment contract with any other governmental agency that is a component part of the locality; (3) contracts for the sale of goods or services by a governmental agency at uniform prices available to the public; (4) contracts for the sale, lease, or exchange of real property between the locality and the public officer or employee; and (5) contracts for goods and services when the contract does not exceed \$500.

30-500 Prohibited acceptance of gifts, personal benefits, money, and other things of value

COIA prohibits public officials or members of their immediate families from engaging in a range of conduct by which the person subject to the Act receives a variety of things of value.

30-510 Gifts

Virginia Code § 2.2-3103.1 prohibits public officials or members of their immediate families from soliciting, accepting, or receiving any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for themselves or members of their immediate family from any person that they, or a member of their immediate family, know or have reason to know is: (1) a registered lobbyist; (2) a lobbyist's principal; or (3) a person, organization, or business who is or is seeking to become a party to a contract with the locality of which the public official is an officer or employee. *Virginia Code § 2.2-3103.1(B)*. Gifts with a value of less than \$20 are not subject to aggregation. *Virginia Code § 2.2-3103.1(B)*. Four key exceptions apply to local public officials:

- Gifts composed of food, beverages, entertainment, cost of admission: Public officials or members of their immediate families may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value more than \$100 when the gift is accepted or received while in attendance at a "widely attended event" and is associated with the event. *Virginia Code § 2.2-3103.1(D)*. A "widely attended event" is an "event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals who are: (i) members of a public, civic, charitable, or professional organization, (ii) who are from a particular industry or profession, or (iii) who represent persons interested in a particular issue." *Virginia Code § 2.2-3103.1(A)*. These gifts must be reported on the disclosure form prescribed by Virginia Code § 2.2-3117. Note that offers of a ticket, coupon, or other admission or pass is not a gift unless it is used; also note that "attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered," is not a gift. *Virginia Code § 2.2-3101 (definition of "gift")*.
- Gifts from foreign dignitaries: Public officials or members of their immediate family may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the fair market value or a gift of greater or equal

value has not been provided or exchanged. *Virginia Code* § 2.2-3103.1(E). The gift must be accepted on behalf of the locality and archived in accordance with guidelines established by the Library of Virginia. These gifts must be disclosed as having been accepted on behalf of the locality, but the value of the gift is not required to be disclosed. *Virginia Code* § 2.2-3103.1(E).

- Gifts from lobbyists, lobbyist's principals, or persons seeking contracts who are also personal friends: Public officials or a member of their immediate family may accept or receive certain gifts with a value in excess of \$100 from a registered lobbyist, lobbyist's principal, or person seeking a contract with the locality if the gift was made on the basis of a personal friendship. *Virginia Code* § 2.2-3103.1(F). Whether the donor is a personal friend will be evaluated by these factors: (1) the circumstances under which the gift was offered; (2) the history of the relationship between the public official and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (3) to the extent known to the public official, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (4) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in *Virginia Code* § 2.2-3117. *Virginia Code* § 2.2-3103.1(F).
- Gifts of travel and related expenses from lobbyists, lobbyist's principals, or persons seeking contracts: Public officials or members of their immediate family may accept or receive gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of \$100 paid for or provided by a registered lobbyist, lobbyist's principal, or person seeking a contract with the locality when the public official has submitted a request for approval of the travel to the Virginia Conflict of Interest and Ethics Advisory Council and has received the approval of the Council pursuant to *Virginia Code* § 30-356.1. *Virginia Code* § 2.2-3103.1(G). These gifts must be reported on the disclosure form prescribed in *Virginia Code* § 2.2-3117. *Virginia Code* § 2.2-3103.1(G).

Virginia Code § 2.2-3103.2 provides that a person will not be in violation of any provision prohibiting the acceptance of gifts if: (1) "the gift is not used by such person and the gift or its equivalent in money is returned to the donor or delivered to a charitable organization within a reasonable period of time upon the discovery of the value of the gift and is not claimed as a charitable contribution for federal income tax purposes"; or (2) "consideration is given by the donee to the donor for the value of the gift within a reasonable period of time upon the discovery of the value of the gift provided that such consideration reduces the value of the gift to an amount not in excess of \$100 as provided in" *Virginia Code* § 2.2-3103.1(B) or (C).

30-520 Personal benefits, money, and other things of value

Virginia Code § 2.2-3103 *et seq.* prohibits a range of conduct in which a public officer or employee ("public official") obtains personal benefits, money, gifts, and other things of value:

- Soliciting or accepting money or other thing of value for services: Except for special benefits authorized by law, a public official may not solicit or accept money or other things of value for services performed within the scope of the public official's official duties, except the compensation, expenses, or other remuneration paid by the locality.
- Offering or accepting money or other thing of value for employment, appointment, or promotion: A public official may not offer or accept money or any other thing of value in consideration of obtaining employment, appointment, or promotion of any person with any governmental or advisory agency.
- Offering or accepting money or other thing of value to use position for contract purposes: A public official may not offer or accept any money or other thing of value for or in consideration of the use of the public official's position to obtain a contract for any person or business with any governmental or advisory agency.
- Using confidential information for personal or another's gain: A public official may not use for the public official's own economic benefit, or that of another party, confidential information which was acquired by reason of the public position and which is not available to the public.

- Accepting money or other benefit that may influence performance: A public official may not accept any money, loan, gift, favor, service, or business or professional opportunity that reasonably tends to influence the public official's performance of official duties. This rule does not apply to any political contribution actually used for political campaign or constituent service purposes and reported as required by Virginia Code § 24.2-900 *et seq.*
- Accepting an opportunity that may influence performance: A public official may not accept any business or professional opportunity knowing that there is a reasonable likelihood that the opportunity is being afforded to influence the public official's performance of official duties.
- Accepting honoraria: A public official may not accept any honoraria for any appearance, speech, or article in which the public official provides expertise or opinions related to the public official's performance of official duties. The term *honoraria* does not include any payment for or reimbursement to a public official for actual travel, lodging, or subsistence expenses incurred in connection with the appearance, speech, or article or, in the alternative, a payment of money or anything of value not in excess of the *per diem* deduction allowable under section 162 of the Internal Revenue Code.
- Accepting a gift where its timing and nature question impartiality: A public official may not accept a gift from a person who has interests that may be substantially affected by the public official's performance of official duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the public official's impartiality in the matter affecting the donor.
- Accepting gifts frequently as to raise appearance of impropriety: A public official may not accept gifts from sources on a basis so frequently as to raise an appearance that the public official is using the office for private gain.
- Retaliating against a person for expressing views on matters of public concerns or for exercising protected rights: A public official may not use his public position to retaliate or threaten to retaliate against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law. However, this prohibition does not restrict the authority of any public employer to govern the conduct of its employees, and to take disciplinary action, in accordance with applicable law, and does not limit the authority of a constitutional officer to discipline or discharge an employee with or without cause.

Each of these prohibitions will be liberally construed to apply as broadly as reasonable under the circumstances.

30-600 Obtaining an opinion as to whether a conflict of interest exists

A public official should review pending matters and agenda materials for possible conflicts of interest and then request an opinion as to whether a conflict exists. If the public official believes that a conflict of interest may exist, the public official should contact the locality's attorney so that it is aware of the possible conflict, provide advice, refer the public official elsewhere, and, if necessary, prepare a required disclosure statement before the matter is considered.

30-610 Request an advisory opinion from the locality's attorney, the Commonwealth's Attorney, or the Virginia Conflict of Interest and Ethics Advisory Council

A public official who believes that a conflict of interest may exist should make a *written* request for an advisory opinion from the locality's attorney (*Virginia Code* § 2.2-3121(B)) or the Commonwealth's Attorney (*Virginia Code* § 2.2-3126(B)), or for a formal opinion or written informal advice from the Virginia Conflict of Interest and Ethics Advisory Council ("Council") (*Virginia Code* § 30-356(5)).

A public official who relies in good faith on the written opinion of the Commonwealth's Attorney or the formal opinion or written informal advice of the Council is immune from prosecution for a knowing violation of COIA, regardless of whether the opinion is later withdrawn, provided the alleged violation occurred before the opinion was withdrawn. *Virginia Code* § 2.2-3121(B).

A public official who relies on the written opinion of the locality's attorney, and is prosecuted for a knowing violation of COIA, may introduce a copy of the opinion at trial as evidence that the public official did not knowingly violate COIA. *Virginia Code § 2.2-3121(C)*.

The public official should disclose all of the facts in writing to the locality's attorney, the Commonwealth's Attorney, or the Council. It also is important that the opinion request be made in sufficient advance of the public official's participation in the matter to allow adequate time for the matter to be thoroughly reviewed and the opinion to be written. Finally, if the public official will participate in the matter based on the advisory opinion, the official should have the written opinion before participating.

30-620 Request the Attorney General to review Commonwealth's Attorney opinion, and judicial review

If the opinion given by the Commonwealth's Attorney indicates that the facts would violate COIA, the public official affected by the opinion may request the Attorney General to review the opinion. *Virginia Code § 2.2-3126(B)*. A conflicting opinion by the Attorney General acts to revoke the opinion of the Commonwealth's Attorney. *Virginia Code § 2.2-3126(B)*.

Regardless of whether an opinion of the Commonwealth's Attorney or the Attorney General has been requested and rendered, any person has the right to seek a declaratory judgment or other judicial relief as provided by law. *Virginia Code § 2.2-3126(B)*.

30-700 Penalties for a knowing violation of COIA

A knowing violation of COIA has serious consequences. A knowing violation is either a Class 1 or a Class 3 misdemeanor, depending on the section of COIA violated, and constitutes malfeasance in office. *Virginia Code §§ 2.2-3120, 2.2-3122*. In addition to criminal fines and penalties, a knowing violation may result in forfeiture of the office or employment, the forfeiture of the value derived from the violation, and civil penalties in the amount of the value derived from the violation. *Virginia Code §§ 2.2-3122, 2.2-3124(A)*. There also are civil penalties of \$250 for failing to timely file a disclosure form. *Virginia Code § 2.2-3126(B)*.

30-800 Avoiding the Appearance of Impropriety Even Though a Conflict of Interest Requiring Disqualification does not Exist under COIA

COIA does not address all conflicts of interest. There may be circumstances when a public official's interest in a transaction may not be a conflict under COIA, but which may lend itself to an appearance of impropriety. These situations may arise, for example, when a party to a transaction is a personal friend, a family member who is not a member of the immediate family as defined under COIA, or is a club or other organization to which the public official is a member, but does not have the requisite ownership interest to trigger COIA. In those cases, it is incumbent upon the public official to determine whether participating in the transaction presents an appearance of impropriety. *2005 WL 1104519 (Va. Op. Atty. Gen.)*.

In determining whether an appearance of impropriety exists, the public official should consider: (1) whether the appearance of a conflict is unacceptable; and (2) whether the appearance of a conflict will affect the confidence of the public in the public official's ability to impartially perform duties. *2005 WL 1104519 (Va. Op. Atty. Gen.)*. If either of these elements is present, the public official should seriously consider abstaining from participating in the matter. At the same time, however, a public official, particularly an elected public official, should not hastily abstain from a matter.



TOWN OF ALTAVISTA
PLANNING COMMISSION
January 3, 2023
AGENDA COVER SHEET

AGENDA ITEM #: 8.4

New Business

Title: Discretionary Land Use Decisions, Ex Parte Communication, and Freedom of Information Act

Staff Resource: Sharon D. Williams, AICP, Community Development Director

Action(s):

Receive information from staff.

Explanation:

To aid the Planning Commission in its work, staff is providing Appendix D from the Albermarle County Land Use Law Handbook to provide a guide to Planning Commissioners in forming decisions on land use application.

Background:

Over the past two (2) years there has been a transition in the Planning Commission with new members being appointed. To assist the current and new Planning Commissioner, staff is providing guidance on tools the Planning Commissioners should use to make land use decisions.

Staff has created a document to explain Ex Parte Communications to the Planning Commissioners to aid in their work.

For the benefit of new members and a refresher to seasoned members, staff will provide a short overview of the Virginia Freedom of Information Act.

Funding Source(s):

N/A

Attachments: *(click item to open)*

[*Albermarle Approach to Discretionary Land Use Decisions.pdf*](#)

[*Ex-Parte Communications.pdf*](#)

[*FOIAGuideForMembersPublicBodies.pdf*](#)

Appendix D

An Approach to Making a Discretionary Land Use Decision

A decision-maker must analyze facts, identify the issues, and apply the relevant facts to the applicable standards and make a decision. This appendix provides an approach to reach a decision.

1. Put the application in its proper context

By identifying the nature of the application under review, you can begin to organize your thoughts in ways that will identify the relevant and irrelevant issues. For example, if a planning commission is considering a rezoning, you know that the policies in your locality's comprehensive plan will play a big role, you may suggest some modifications to the application that would allow a policy to be achieved, that you have a lot of discretion in how those policies are applied, and that your decision will be a recommendation to the governing body. On the other hand, if the planning commission is considering a subdivision plat, the sole issue is whether the plat satisfies the minimum requirements of the subdivision ordinance, the comprehensive plan is irrelevant, there are no policy considerations, and the planning commission has no discretion to deny the plat if it satisfies the minimum requirements.

2. Identify the relevant policies, standards, and facts

The staff report should identify the relevant policies and standards that apply to a particular decision. The policies and standards not only guide your decision, but also determine what facts will be relevant or irrelevant. Discarding the irrelevant from the relevant is essential. Be aware, however, that what may be considered to be relevant to a legislative decision on a rezoning or a special use permit application, is significantly broader than what is relevant to a ministerial decision on a subdivision plat or site plan.

3. Rank the policies, if applicable

When considering legislative or discretionary matters to which the policies in the comprehensive plan may apply, you may need to decide which policies should prevail over other policies if there are conflicts between them. Hopefully, the policies in your comprehensive plan are not internally inconsistent. Even if they are not, you may decide to give one policy greater weight in your decision than another.

4. Organize the facts

Facts must be organized in two ways. First, the relevant facts must be separated from the irrelevant facts. Facts are relevant if they tend to support or not support a conclusion. Second, the facts need to be organized within the framework of the policies or standards applicable to the decision. A well-written staff report should present the relevant facts within the framework of the policies or standards to allow the public body to easily identify which facts support or do not support each applicable policy or standard.

5. Consider and discuss the options

The range of options available in making a decision will depend on the nature of the application, the facts that have been presented, and whether the facts support or do not support the applicable policies, criteria, and standards.

6. Select an option

By the time the discussion ends, a conclusion should have been reached as to whether the facts support the applicable policies or standards. Again, the available options will depend on the nature of the application. However, the option selected must be supported by the relevant facts as they are applied to the applicable policies and standards. Otherwise, the decision may be subject to challenge as arbitrary and capricious.

Ex-parte Communications and Virginia Freedom of Information Act

This document is a guide for Planning Commissioners to use when discussing matters outside of Planning Commission meetings.

Ex parte is Latin meaning “from or on one side only, with the other side absent or unrepresented.” In a democratic society, open, fair decision making is critical to whether the public trusts what the government is doing.

Open meetings at the federal government level are based on the passage of the Government in the Sunshine Act of 1976, typically referred to as the “Sunshine Act”. It occurred at a time in U.S. history when the Watergate scandal had caused an outcry for increased government transparency and accountability. Also known as the Open Meetings Act, its primary function is to ensure that decisions regarding the federal government that affect the public are open and accessible to the public.

In Virginia the Freedom of Information Act, more commonly known as the open meetings law or Sunshine Law, states that a meeting, which consists of three or more members of a public body discussing public business, must provide notice before holding the gathering. Intended to hold the government accountable, FOIA requires there be at least three days’ notice of a meeting. It must also include the date, time, place, and be open to the public.

In planning circles, ex parte, or one-sided communications, are usually problematic, either legally, ethically, or both. A Variance or Special Use Permit (SUP) is typically considered a quasi-judicial action, where a Planning Commission, Board of Zoning Appeals, and/or Town Council often sit as judges and rule on a specific case and the applicability of facts to it. To help ensure proper due process is given to all parties, they need to hear all the facts equally and openly, as do those who may be opponents, proponents, or just interested by-standers of the matter at hand.

Land use issues frequently bring out enthusiastic opinions from all sides. One of the most important roles of a Planning Commissioner is to be an objective, fair-minded representative of the community. It is of the utmost importance to resist the temptation to “make up” one’s mind before hearing all the facts. Having said that, if Commissioners become partisan or politically motivated in their decision-making, or if the appearance of fairness and open-mindedness is breached, then the confidence the public has in the Commission’s decision-making process will deteriorate rapidly. It is of the utmost importance to resist the temptation to “make up” one’s mind before hearing all the facts — for the sake of the individuals with a stake in the issue, and, for the integrity of the democratic process itself.

The best advice is for Planning Commissioners to avoid ex-parte communications or information completely. In the event some new information is given to you on a case, it must be disclosed openly during the process as soon as possible.

On especially hot topics, Planning Commissioners or Town Council members are often bombarded with phone calls, letters, or people catching them at the grocery store, each giving good reasons why a project should be approved or rejected. However, even though there may be more allowance given to how information is gathered in legislative actions as opposed to quasi-judicial ones, there still exists this whole idea of fairness that is essential to not only making good decisions but also giving the appearance of it. An action doesn't have to be illegal to be ill-advised.

Information on a case can be either frivolous or important, regardless of the source. Often, the only way to know the difference is to make it available for public consumption. It may be relevant, it may be irrelevant, but the surest way to know is to make it public.ⁱ

Excerpts courtesy of Ted Shekell, AICP (retired)

FOIA AND MEMBERS OF PUBLIC BODIES

EMAIL AND MEETINGS: The VA Supreme Court has held that emails may constitute a "meeting" under FOIA if there is simultaneous email communication between three or more board members. Avoid "reply to all" as a general rule. See FOIA Council handout entitled *"Email and Meetings"* available on the FOIA Council website.

RECORDS

WHAT is a PUBLIC RECORD?

ALL writings and recordings that consist of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business.

ALL public records are OPEN to the public **UNLESS** a specific exemption in law allows the record to be withheld.

FOIA AND MEMBERS OF PUBLIC BODIES

WHAT about RETENTION of PUBLIC RECORDS?

Public records **MUST** be retained according to retention schedules set by the Library of Virginia. The length of retention depends on the content of the record. After expiration of the applicable retention period, the records may be destroyed or discarded.

EMAILS

Emails that relate to public business are public records, regardless of whether you use your home or office computer, text message, or other forms of social media. It is the **content** of the record, not the equipment used, that controls.

As such, these emails must be retained as required by the Virginia Public Records Act. For practical advice for email use, access and retention, see FOIA Council handout entitled *"Email: Use, Access and Retention"* available on the FOIA Council website.

**Virginia Freedom of Information
Advisory Council**

Alan Gernhardt, Executive Director

Ashley Binns, Attorney

Email: foiacouncil@dls.virginia.gov

Telephone: (804) 698-1810

Toll-Free: 1-866-448-4100

<http://foiacouncil.dls.virginia.gov>

***A Guide to the Freedom of
Information Act for Members of
Boards, Councils, Commissions,
and other Deliberative Public
Bodies***



***Prepared by the Virginia Freedom
of Information Advisory Council***

POLICY OF FOIA

By enacting this chapter, the General Assembly ensures the people of the Commonwealth ready access to records in the custody of public officials and free entry to meetings of public bodies wherein the business of the people is being conducted. The affairs of government are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government.

Unless a public body or public official specifically elects to exercise an exemption provided by this chapter or any other statute, every meeting shall be open to the public and all public records shall be available for inspection and copying upon request. All public records and meetings shall be presumed open, unless an exemption is properly invoked.

MEETING REQUIREMENTS

What is considered a MEETING under FOIA?

ANY gathering, including work sessions, of the constituent membership, sitting (or through electronic communication means pursuant to § 2.2-3708.2) as:

- the board, or
- an informal assemblage of
 - (i) as many as three members, or
 - (ii) a quorum, if less than three, of the constituent membership,

WHEREVER the gathering is held;

REGARDLESS of whether minutes are taken OR votes are cast.

NOTE: This requirement also applies to ANY meeting, including work sessions, of any subgroup of the board, regardless how subgroup is designated (i.e., subcommittee, task force, workgroup, etc.).

WHAT is *NOT* a MEETING?

- The gathering of employees; or
- The gathering or attendance of two or more board/council members at:
 - Any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business; OR
 - A public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to discuss or transact public business.

OTHER FOIA PROVISIONS

MINUTES: Minutes **ARE REQUIRED** for any meeting of the board/subgroup of the board.

VOTING: **NO** secret or written ballots are ever allowed.

POLLING: You **MAY** contact individual members **separately (one-on-one)** to ascertain their positions by phone, letter or email.

REMEMBER: This exemption **CANNOT** be used in lieu of a meeting.

REMEMBER, ALSO: If you choose to use email to poll, you are creating a public record!

CLOSED MEETINGS: Allowed **ONLY** as specifically authorized by FOIA or other law and **REQUIRES** a motion stating the purpose, the subject, *and* Code cite. [See § 2.2-3711 of FOIA for allowable purposes for closed meetings.]

E-MEETINGS: Are allowed for state public bodies under heightened procedural and reporting requirements (i.e., quorum must be physically assembled in one location, annual report to FOIA Council, etc.). For all public bodies, limited individual participation by electronic means is allowed under certain circumstances (personal matter, medical reason, or distance in the case of regional public bodies). [See § 2.2-3708.2 of FOIA.]



TOWN OF ALTAVISTA
PLANNING COMMISSION
January 3, 2023
AGENDA COVER SHEET

AGENDA ITEM #: 8.5

New Business

Title: 2022 Annual Report

Staff Resource: Sharon D. Williams, AICP, Community Development Director

Action(s):

Approve the report.

Explanation:

The Planning Commission will review the 2022 Annual Report.

Background:

As required by Sec. 58-36(5) of the Code of the Town of Altavista and §15.2-2221(5) of the Code of Virginia, the Planning Commission must prepare and submit an annual report to Town Council on the state of planning commission and the status of planning within the town.

Funding Source(s):

N/A

Attachments: *(click item to open)*

[*Altavista Planning Commission 2022 Annual Report.pdf*](#)



TOWN OF ALTAVISTA PLANNING COMMISSION ANNUAL REPORT - 2022

COMMISSIONERS

John Jordan, Chair
Marie Mitchell, Vice Chair
Vice Mayor Reggie Bennett
Meghan Bolling
Ashby Robinson

OVERVIEW

The Altavista Planning Commission is comprised of five citizens appointed by Town Council. The Commission fulfills the duties identified in Section 15.2-2221 of the Code of Virginia. The Planning Commission is the official planning body for review of the future growth and development of the Town of Altavista pursuant to the adopted Comprehensive Plan and Town Ordinances. The Community Development Department is the lead department that supports the work of the Planning Commission by providing planning guidance and technical review. The Town Attorney serves a valuable role in advising the Planning Commission and staff – when needed – on land use matters. Town citizens also provide critical contributions through input and involvement during citizen comment periods and public hearings.

MEMBERSHIP

NAME	TERM EXPIRES
John Jordan, Chairman	November 2026
Reggie Bennett (<i>Council Liaison</i>)	December 2026
Marie Mitchell, Vice Chair	March 2026
Meghan Bolling	February 2026
Ashby “A.J.” Robinson	December 2026

STAFF

NAME	POSITION
Sharon D. Williams, AICP	Community Development Director
J. Johnson Eller, Jr.	Town Attorney
Crystal Hailey	Assistant Town Clerk

REGULATORY CASES

Case #	DATE OF COMMISSION ACTION	COMMISSION Action	Date of Council Action	Town Council Vote	APPLICANT	REQUEST
SUP-22-01	July 5, 2022	Recommended Approval (5-0)	August 9, 2022	Approved (6-0)	DAWN (Donation A Week Neighbor, Inc.)	A Special User Permit (SUP) to authorize a food pantry at 717 7 th St in the C-2 Zoning District pursuant to Sec. 86.782 of the Zoning Ordinance.
RZ-22-01	August 1, 2022	Recommended Approval 5-0	August 9, 2022	Approved (9-0)	Town of Altavista	An ordinance to zone Tax Parcel #69-4-4-3 to the Industrial (M) Zoning District, which parcel was brought within the corporate limits of the Town of Altavista from Campbell County, by a Boundary Line Adjustment ordered by the Campbell County Circuit Court on June 24, 2022, effective July 1, 2022.

ORDINANCE AMENDMENTS

Case #	DATE OF COMMISSION ACTION	COMMISSION Action	Date of Council Action	Town Council Vote	APPLICANT	REQUEST
OA-22-01	August 1, 2022	Recommended Approval (5-0)	September 13, 2022	Approved (5-0)	Town of Altavista	An ordinance to amend Sec. 86-139 of the Zoning Ordinance to permit flagpoles up to 35' in height by-right and additional height w/ a Special Use Permit in the R-1 Zoning District.
OA-22-02	August 1, 2022	Recommended Approval (5-0)	September 13, 2022	Approved (5-0)	Town of Altavista	An ordinance to amend Sec. 86-199 of the Zoning Ordinance to permit flagpoles up to 35' in height by right and additional height w/ a Special Use Permit in the R-2 Zoning District.
OA-22-03	August 1, 2022	Recommended Approval (5-0)	September 13, 2022	Approved (5-0)	Town of Altavista	An ordinance to amend Sec. 86-327 of the Zoning Ordinance to permit flagpoles up to 35' in height by right and additional height w/ a Special Use Permit in the C-1 Zoning District.

OA-22-04	August 1, 2022	Recommended Approval (5-0)	September 13, 2022	Approved (5-0)	Town of Altavista	An ordinance to amend Sec. 86-356 of the Zoning Ordinance to permit flagpoles up to 40' in height by right and additional height w/ a Special Use Permit in the C-2 Zoning District.
OA-22-05	August 1, 2022	Recommended Approval (5-0)	September 13, 2022	Approved (5-0)	Town of Altavista	An ordinance to amend Sec. 86-188 of the Zoning Ordinance to permit flagpoles up to 45' in height by right and additional height w/ a Special Use Permit in the M Zoning District.
OA-22-06	N/A	N/A	November 25, 2022	Take No Action (refund applicant) (5-2)	Pivot Energy	A request to amend the Zoning Ordinance to permit large scale utility solar in the C-2 & M Zoning Districts with a Special Use Permit.

COMMUNITY DEVELOPMENT ADMINISTRATION

Applications

- **70 Zoning Permits were issued in 2022**
- **31 of the Zoning Permits were for new businesses or changes in ownership in 2022**
- **13 plats were approved**

Name	Location	Type of Business
Riverside Drycleaners of Danville, Inc	1025 Main St	Former Riverside Dry Cleaner
Sunset Slush Cool Bus	Varies	Mobile Restaurant
Body Boss Transformations LLC	521 Main St	Body Sculpting
Main Street Buffett	1014 Main St	Restaurant (new owner)
Treasia Smith	206 Frazier Rd	Cleaning Service*
DAWN (Donation A Week Neighbor)	717 7 th St	Food Pantry
Jonathon Arroway	1010 7 th St	Computer work, sales, crafts*
Black Crow Firearm Training	821 Main St	Office
Sherry McCulloch -Shear Perfection	612 7 th St	Salon – new tenant
Mint & Honey	503 7 th St	Salon
Keystone Novelties	1301 Main St	Fireworks (temporary vendor)
Pop's Bait & Tackle	103 Wood Ln	Bait & Tackle
Nails By Angela	613 Broad Street	Salon
Karl Miller Realty	616 Campbell Ave	Real Estate Office
Puff & Play	1107 Main St	Skill Games – new owner
Armory Consultants	1502 Avondale Dr	Consultant
M&M Cleaners	804 Main St	Dry Cleaner
Gabby's Cut & Buzz	613 Broad St	Salon – new tenant
Revamped	2187 Lynch Mill Rd	Retail
AltaVegas	1200 Avondale Ave	Multi-Family new owner
Perfect Canvas Salon	613 Broad St	Salon
Peggy Myers	613 Broad St	New Tenant –Salon name change

Name	Location	Type of Business
Community Veterinary Clinic	1301 Main St	Mobile Vet -Tractor Supply
KDR Convenience	1308 Main St	Convenience Store new owner
Janes Attic	613 Main St	Retail
Peace of Pie Pizzeria LLC	519 Broad St	Restaurant
Mazen Inc (Joy Food Store)	1028 Main St	Convenience Store -new owner
KDR Convenience LLC	1205 Main St	Convenience Store new owner
Sonny Enterprises	1032 Main St	Vape Shop
Allure LLC	901 7 th St	Salon – name change
Joan Tyree	613 Broad St	Salon Tenant – name change

* H. O. – Home Occupation

Temporary Food Truck/Mobile Restaurant Permits for festivals/events:

Unbeatable Pita	Mission BBQ	Chief's BBQ	Bella's Burgers & Shakes
SWVA Concessions	Big Blue Ice Cream Truck	Hardman Smoke	Bennie's Seafood
Watts Poppin & Chillin	Buddy's BBQ	Claire Parker's BBQ	Three Into One
Pop's Good Humor	Kona Ice of Lynchburg	Boardwalk Baker Cheesecake	
Air Strip Grill			

Two (2) new single-family dwellings were built or under construction in 2022

1301 3rd Street

1301 4th Street

Violations

During 2022, staff received seventy-seven (77) confirmed code enforcement complaints. Sixty-nine (69) complaints were abated.

COMMUNITY DEVELOPMENT SPECIAL PROJECTS

In August 2021 work began on the update to the Comprehensive Plan between the Planning Commission, Town staff, and the Central Virginia Planning District Commission staff. This work continued in 2022. An online survey and paper survey was created to gather input from citizens and the Planning Commission completed a SOAR (Strength, Opportunity, Aspiration, Results) Analysis. Plan was restructured, made visually appealing, and inclusive, Altavista's history and historic district were added, demographic data updated based on 2020 Census, Town Plans where Community Development or Planning Commission were mentioned as an implementer was added or referenced in the plan and the Goals & Objectives for the Town were updated in the categories of Housing, Economic Development, Community Facilities, Natural & Cultural Resources, Land Use, and Transportation. The Plan was adopted by Town Council on December 13, 2022 and is officially known as the *2045 Comprehensive Plan*.

Town staff completed work on establishing a Town-based Geographical Information System (GIS). This will allow staff to share information about streets, zoning and overlay districts, and the recommended Future Land Use designations from the Comprehensive Plan. This information is not available on the Campbell County GIS application. Staff shared a link to this portal on the Community Development page of the Town's website.

An online permit application portal was created and posted to the Town's website. This allows citizens to apply for permits without having to come to Town Hall.

The town completed the renovation of the vacant fire station, next to Town Hall, into an accelerator, incubator, and coworking space known as Spark Innovation Center. The facility is expected to open to the public in early 2023.

The Town formed a project team for its Acquire Renovate Sell (ARS) Program which is a grant funded by the Virginia Department of Housing and Community Development (DHCD). This program will allow the town and its partners to purchase undervalued homes, renovate, and sell them. It also permits funds to be used for new construction. Under the program guidelines a maximum of \$45,000 in ARS funds will be awarded per project to restore the home to a comparable market state. The \$45,000 will include \$2,000 for performance deliverables (acquisition: \$500, renovation: \$1,000, resale: \$500) incurred by the provider and \$2,500 for the rehab specialist. The remaining \$40,500 will be available for renovation draws and contingencies. When the house is sold, the town will repay DHCD \$40,500. Any profit can be used for the town to create its own program. The town's first three projects will be in the Mosley Heights neighborhood. The Town owned one lot in this neighborhood before applying for the grant. In response to a Notice of Violation (NOV) a property owner offered to sell a blighted property on 13th St and 2 vacant lots on 15th St to the town. These properties will be developed as single-family dwellings.

ALTAVISTA ADVANTAGE

Kaitlin Smith, Perfect Canvas Salon, received a \$10,000 loan through the Altavista Advantage Program. This was a 60-month, no interest loan that allowed her to purchase equipment and fixtures for her new salon located at 613 Broad St.

The US Department of Agriculture (USDA) notified the Town that the remaining \$31,000 in this revolving loan fund would be de-obligated on November 10, 2022. The Town was awarded a Rural Business Enterprise Grant (RBEG) in June of 2014 for \$99,500. Six (6) businesses were assisted through this program.

ALTAVISTA ON TRACK (AOT) SPECIAL PROJECTS

On May 14, 2022, AOT hosted its first spring festival known as Vista River Fest. AOT hosted three (3) bands, a petting zoo, photo booth, food trucks, and craft breweries. There was no charge to attend the event and it was AOT's thanks to the citizens and businesses of Altavista for their support.

Altavista On Track awarded a Downtown Business Investment Grant (DBGI) to one (1) downtown business: Perfect Canvas Salon at 613 Broad St. This grant provided three (3) months

of rent and utility subsidies to assist the business with getting started without incurring large upfront costs.

In July, the Town and AOT amended their Memorandum of Understanding to provide funding which allowed AOT to hire a full-time Executive Director. Previously, a Town employee was hired to manage the day-to-day activities of the nonprofit. This arrangement provided AOT additional autonomy to manage and direct the Executive Director.

PLANNING COMMISSION 2022 WORK PLAN

- Update the Subdivision Ordinance.
- Begin the update to the Zoning Ordinance.
- Continue to explore ways to provide an improved housing stock that meets the needs of citizens.



TOWN OF ALTAVISTA
PLANNING COMMISSION
January 3, 2023
AGENDA COVER SHEET

AGENDA ITEM #: 8.6

New Business

Title: Visioning Exercise

Staff Resource: Sharon D. Williams, AICP, Community Development Director

Action(s):

Participate in a visioning session with staff.

Explanation:

Staff and the Planning Commission will participate in a visioning exercise.

Background:

The Altavista 2045 Comprehensive Plan was adopted by Town Council on December 13, 2023. The next step is for the Planning Commission and staff is the update Subdivision Ordinance and the Zoning Ordinance.

To prepare for the rewrite, a discussion will be held on things that might need to be addressed in the code update to add or eliminate certain uses and features to create a town that is prepared for development, which is capable of enticing new businesses, industries, and residents.

Funding Source(s):

N/A

Attachments: *(click item to open)*