


**ACTION ITEM
BOARD OF SUPERVISORS**

DATE: February 6, 2007

TO: Board of Supervisors

FROM: Jeffrey A. Harvey 
Director of Planning & Community Development

ISSUE: Refer to the Planning Commission an Amendment to the Zoning Ordinance
Regarding Administrative Exception for Public Improvements

RECOMMENDATION: Approval

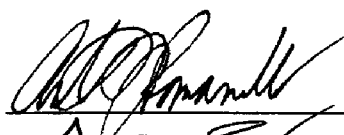
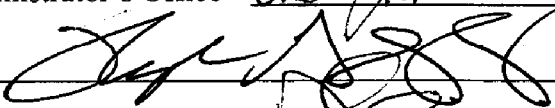
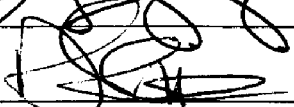
BUDGET IMPACT: N/A

ATTACHMENTS: (3)

[1] Background Report [2] Reso/Ord/Proc # R07-73

[2] Proposed O07-19 [3] Reso/Ord/Proc #

[] [] Reso/Ord/Proc #

REVIEW: [X] County Administrator's Office 
[X] Legal 
[X] Code Administration 

- | | | |
|--|---|--|
| <input type="checkbox"/> Consent Agenda | <input type="checkbox"/> Other Business | <input type="checkbox"/> Public Hearing |
| <input type="checkbox"/> Discussion Item | <input type="checkbox"/> Presentation | <input type="checkbox"/> Unfinished Business |
| <input checked="" type="checkbox"/> New Business | | |

PRESENTATION BY: Jeff Harvey, Director
Planning and Community Development

ELECTION DISTRICT: N/A

BACKGROUND REPORT

Proposed Ordinance O07-19 – Amends Section 28-57, Flood Hazard Overlay Districts (FH), of the Zoning Ordinance. Public Works such as Utilities, public facilities, and improvements, such as railroads, streets, bridges, transmission lines, water and sewage treatment plants, stormwater management structures, and other similar related uses may be permitted, by special exception, in the floodway district, provided they are in compliance with the provisions of the underlying districts and are not prohibited by the zoning ordinance. Water dependent uses and activities, such as marinas, docks, wharves, piers, or shoreline protection measures, may be permitted, by administrative exception, in the floodway district provided they are in compliance with the zoning ordinance. If the agent does not grant the administrative exception, then a special exception would need to be granted for the water dependent uses and activities to be permitted within the floodway. The County will not allow any encroachments, including fill, new construction, substantial improvements, or other development, within the floodway unless it has been demonstrated, through hydrological and hydraulic analyses performed in accordance with standard engineering practice, that the proposed encroachment would not result in any increase in the 100-year flood elevation. If the proposed encroachment would cause an increase in the 100-year flood elevation, the County may allow such increase in the 100-year flood elevation, provided the County first applies for a conditional Flood Insurance Rate Map (FIRM) and floodway revision, and receives approval from Federal Emergency Management Agency (FEMA) prior to construction of the proposed encroachment.

Regardless of whether a use or activity requires a special exception or administrative exception, the decision will not be granted until the County has received the approval from FEMA. The decision for both types of approvals is based on the hydrological and hydraulic analyses that have been conducted and approval from FEMA. Staff believes that the requirement for a special exception is a redundant process. FEMA ultimately determines whether a proposed encroachment in a floodway would constitute a flood hazard. Abutting property owners are notified when a site plan or preliminary subdivision plan is submitted to the County. At any time, a property owner can contact FEMA and express their concerns about potential flood hazards. The change to the existing law is to eliminate the redundant special exception process.

The proposed ordinance was submitted to the Ordinance Committee at its meeting on November 1, 2006 for approval to send to public hearing and the request was denied.

Proposed Resolution R07-73 – A resolution to request the Planning Commission to conduct a public hearing for proposed Ordinance O07-19 and notify the Board of its recommendation by March 8, 2007. The proposed amendment will streamline the review process without compromising accountability, and accordingly, staff recommends approval.

PROPOSED

BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA

ORDINANCE

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the day of , 2007

MEMBERS:

Jack R. Cavalier, Chairman
Mark Dudenhefer, Vice Chairman
M.S. "Joe" Brito
Peter J. Fields
Robert C. Gibbons
Paul V. Milde III
George H. Schwartz

VOTE:

On motion of , seconded by , which carried by a vote of , the following was adopted:

AN ORDINANCE TO AMEND AND REORDAIN THE COUNTY
CODE BY AMENDING SECTION 28-57, FLOOD HAZARD
OVERLAY DISTRICT (FH), OF THE ZONING ORDINANCE

WHEREAS, utilities, public facilities, and improvements, such as railroads, streets, bridges, transmission lines, water and sewage treatment plants, stormwater management structures, and other or similar related uses may be permitted, by special exception, in the floodway district, provided that they are in compliance with the provisions of the underlying district and are not prohibited by this chapter or any other ordinance; and

WHEREAS, the agent may, at his discretion, issue, in writing, an administrative exception for specified uses and activities in the floodway district; and

WHEREAS, uses requiring a special exception or an administrative exception require the same technical review and approval from Federal Emergency Management Agency (FEMA); and

WHEREAS, the Board believes the requirements for flood analysis for a special exception review for public facilities within a floodway district and the technical review and approval process by FEMA are redundant; and

WHEREAS, the Board desires to allow an administrative exception for public utilities in the floodway districts; and

WHEREAS, the Board has carefully considered the recommendation of the Planning Commission and staff and the testimony at the public hearing; and

WHEREAS, the Board finds that public necessity, convenience, general welfare, or good zoning practice requires adoption of such an ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the day of , 2007, that the Stafford County Code be and it hereby is amended and reordained by amending Section 28-57, Flood Hazard Overlay District (FH), of the Zoning Ordinance as follows, with all other portions remaining unchanged:

Sec. 28-57 Flood Hazard Overlay District (FH)

(h) *Permitted uses in the floodway district.*

~~(1) In the floodway district no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the 100-year flood elevation.~~

(2) (1) The following uses and activities are permitted provided that (i) they are in compliance with the provisions of the underlying zoning district; (ii) they are not prohibited by any other law; and (iii) they do not require structures, the placement of fill, or storage of materials and equipment:

- a. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- b. Recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet ranges, and hunting and fishing areas.
- c. Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas.
- d. Accessory industrial and commercial uses, such as yard areas, parking and loading areas, and airport land strips.

~~(3) The following uses and activities may be permitted, by special exception, in the floodway district, provided that they are in compliance with the provisions of the underlying district and are not prohibited by this chapter or any other ordinance:~~

~~a. Utilities and public facilities and improvements, such as railroads, streets, bridges, transmission lines, water and sewage treatment plants, stormwater management structures, and other or similar related uses.~~

~~b. Water dependent uses and activities, such as marinas, docks, wharves, piers, or shoreline protection measures, where no administrative exception has been granted by the agent.~~

(4) (2) The agent may at his discretion issue, in writing, an administrative exception for specified uses and activities in the floodway district. ~~The agent must find that the placement of fill material for the proposed activity or use would not create a flood hazard or contribute to increased flood elevations of off-site properties.~~ The applicant requesting an administrative exception shall submit a written request and provide sufficient information, such as plans and drawings for the agent to determine that there would be no flood hazard impacts review the request. The following uses and activities may be permitted, by administrative exception, in the floodway district:

- a. Water-dependent uses and activities associated with tidal water bodies, such as marinas, docks, wharves, and piers.
- b. Shoreline protection measures where the maximum elevation of the structure or fill does not exceed the base flood elevation.
- c. Public Works.
- d. Streambank restoration or stabilization projects, wetlands mitigation, creation or enhancement projects and other or similar related uses.

(3) Uses and activities not permitted in (1) and (2) above are not permitted in the Floodway District.

(4) In the floodway district, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses, performed in accordance with standard engineering practice, that the proposed encroachment would not result in any increase in the 100-year flood elevation. If the proposed encroachment would cause an increase in the 100-year flood elevation, the County may allow such increase in the 100-year flood elevation, provided the County first applies for a conditional Flood Insurance Rate Map (FIRM) and floodway revision and receives approval from FEMA prior to construction of the proposed encroachment.

SC:JAH:js

PROPOSED

BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA

RESOLUTION

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 6th day of February, 2007

MEMBERS:

- Jack R Cavalier, Chairman
- Mark Dudenhefer, Vice Chairman
- M.S. "Joe" Brito
- Peter J. Field
- Robert C. Gibbons
- Paul V. Milde, III
- George H. Schwartz

VOTE:

On motion of , seconded by , which carried by a vote of to , the following was adopted:

A RESOLUTION TO REFER AN AMENDMENT TO THE ZONING
ORDINANCE TO THE PLANNING COMMISSION REGARDING
THE ADMINISTRATIVE EXCEPTION FOR PUBLIC FACILITIES

WHEREAS, utilities, public facilities and improvements, such as railroads, streets, bridges, transmission lines, water and sewage treatment plants, stormwater management structures, and other or similar related uses may be permitted, by special exception, in the floodway district, provided that they are in compliance with the provisions of the underlying district and are not prohibited by this chapter or any other ordinance; and

WHEREAS, the agent may at his discretion issue, in writing, an administrative exception for specified uses and activities in the floodway district; and

WHEREAS, uses requiring a special exception or an administrative exception require technical review and approval from Federal Emergency Management Agency (FEMA) ; and

WHEREAS, the Board believes the requirement of a special exception for a public facility is redundant to the technical review and approval process by FEMA; and

WHEREAS, the Board desires to allow an administrative exception for public utilities in the floodway districts;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 6th day of February, 2007, that proposed Ordinance O07-19 be and it hereby is referred to the Planning Commission for its consideration; and

BE IT FURTHER RESOLVED that the Planning Commission be and it hereby is requested to make its recommendations by March 8, 2007.

SC:JAH;jjs