UNAPPROVED MINUTES
PLANNING COMMISSION

September 16, 2015

A regular meeting of the Planning Commission of the City of Salem, Virginia, was held in Council Chambers, City Hall, 114 North Broad Street, at 7:00 p.m., on September 16, 2015, there being present all the members of said Commission, to wit: Vicki G. Daulton, Bruce N. Thomasson, Jimmy W. Robertson, Samuel R. Carter, III, and Denise P. King with Vicki G. Daulton, Chair, presiding; together with James E. Taliaferro, II, Assistant City Manager and Executive Secretary, ex officio member of said Commission; Melinda J. Payne, Director of Planning and Development; Charles E. Van Allman, Jr., City Engineer; Benjamin W. Tripp, Planner; Judy L. Hough, Planner; Mary Ellen Wines, Zoning Administrator; and William C. Maxwell, Assistant City Attorney; and the following business was transacted:

The May 13, 2015, work session and regular meeting minutes were approved as written.

WHEREAS, the Executive Secretary noted there had been a request to move Item #4 to Item #1 and Chair Daulton noted that this was acceptable.

In re: Hold public hearing to consider adopting resolution of recommendation regarding Urban Development Areas (UDAs) and for amending "The Comprehensive Plan for the City of Salem" to reflect the addition of UDAs

The Executive Secretary reported that this date and time had been set to hold a public hearing to consider adopting resolution of recommendation regarding Urban Development Areas (UDAs) and for amending "The Comprehensive Plan for the City of Salem" to reflect the addition of UDAs; and

WHEREAS, the Executive Secretary further reported that notice of such hearing had been published in the September 3 and 10, 2015, issues of the Salem Times Register; and

WHEREAS, staff noted the following: recently the Commonwealth of Virginia changed the way it funds transportation; the new process is commonly known as House Bill 2, or HB2 for short; previously, the state provided transportation dollars to localities through a formula; that process has been eliminated under HB2 and a new competitive, metrics driven process put in place which will control most state funding for transportation; under HB2 all localities must compete with each other for transportation dollars, and only certain types of roads and projects are eligible for funding at all; only projects that are located in one of the following areas may apply and be considered for state funding:

1. Projects located on "Corridors of Statewide Significance" – These are Interstate Highways and other similar arterials.
2. Projects located on roads which are part of "Regional Networks" – These are major local arterials. Think 460-11, etc.
3. Projects located in Urban Development Areas. – Areas in which a locality expects growth, and which it wants to designate as a priority for transportation dollars.

Projects which do not meet one of those criteria will not be eligible for state funding, and will have to be paid for with local dollars; however, meeting the criteria does not guarantee funding, only that a project may be considered for funding; to have a project considered the locality must fill out the application and supply the supporting documentation; the requirements of this application are significantly larger than any other grant application the city applies for; applications will require a large amount of staff time, and possibly action by this body for endorsement; one of the primary ways Salem could make its projects eligible for funding is by designating several Urban Development Areas in strategic locations around the city; UDAs were authorized by the Code of Virginia in 2007 (Virginia Code § 15.2-2223.1.) as a requirement for certain high growth localities to designate areas "sufficient to meet projected residential and commercial growth in the locality for an ensuing period of at least 10 but not more than 20 years;" in 2012, however, the Code was amended to define UDAs more broadly and make them optional rather than mandatory; UDAs, under the new Code designation, can be any areas designated by a locality in their comprehensive plan for higher density development and may incorporate principles of Traditional Neighborhood Development such as walkable neighborhood centers, interconnected streets, diversity of land use, and easy access to jobs, housing and recreation by a variety of travel options; this type of development is consistent with the principals laid out in our Comprehensive Plan, and is in keeping with projects already underway such as the East main Street Widening project, the Greenway system, and the efforts which are part of the Downtown Plan; as part of the HB2 implementation process, the state set aside money for technical assistance for localities that wanted help developing UDAs; since adopting UDAs would be a key way to secure funding for transportation projects, staff applied for and received $65,000 worth of services from the consulting firm Rhodeside & Harwell, and the consultants have been working with staff and key stakeholders to develop the draft UDAs; three potential locations have been identified so far, and they are East Main Street, Downtown Salem, and Apperson Drive; these locations were picked because they meet certain criteria for density and commercial mix, and because there are significant transportation and infrastructure needs in those areas, as well as opportunities; staff would like to submit the East Main Street Project, which still needs funding, for consideration under the HB2 application process, and the application is due September 30th; since priority is given to projects located in UDAs, this will give our application an advantage over those from other localities when applications are scored by the state; and as such, the

UDAs need to be adopted by or near the same time the applications are due; and

WHEREAS, Ben Tripp, Planner, appeared before the Commission explaining the Urban Development Areas resolution and amendment to the Comprehensive Plan; he noted that the consultant the City has been working with Dena Rhodeside and Jeff Slussburger or Rhodeside & Harwell are in attendance at the meeting; he noted the reason behind the Urban Development Areas is the change in the way the State of Virginia has funded transportation through the House Bill 2 process; he further noted that there are only a few ways that transportation projects can achieve eligibility for funding under HB2, i.e. being included in a "corridor of statewide significance", a regional network or for falling within an urban development area; the City pursued grant funding from the State to do this plan and we received this funding and have been working with Rhodeside & Harwell to develop the UDA plan presented this evening; he noted the three areas are the City Core – UDA, the Mixed-Use Corridor – UDA, and the Village Core – UDA; he asked Dena Rhodeside to come forward and explain very briefly the three UDAs they have identified; and

WHEREAS, Dena Rhodeside of Rhodeside & Harwell, Alexandria, Virginia, appeared before the Commission discussing the three UDAs; she noted the first one is the City Core, which is actually the City's downtown area, the UDA for this one looks at the opportunities to maximize connections between the downtown area and its surroundings to strengthen those and to also look at opportunities for infill in the future so that it aligns with the work that the City is now doing in looking at the downtown to make the most vibrant, active, and exciting core for the City; it builds on the plans that the City is already looking at for the downtown; the second one is what is being called the Mixed Use Corridor and this one builds on the work that the City and VDOT are currently doing along East Main Street; it looks at the more efficient use of East Main Street and also the beautification and looks at the future of developing mixed use nodes over the long term along the street, which would encourage people to live there, to walk, to bike, and to perhaps shop in this area as well; the third one is the Village Core, and this looks at the opportunities for Apperson Drive; it looks at it in terms of the fact that Apperson is the southern gateway into the City's downtown area and that at the present time it is quite underutilized in this function; it looks at the opportunity to take the node where Apperson and Colorado join and how to possibly create more of a village feel in this area as one goes over the bridge into the heart of the city; it also looks at the extension out to the east on Apperson all the way to the bridge at Route 419, and it looks at ways to improve the appearance of Apperson so that it would encourage change in the future to happen along the street as well; the plan provides all of those connected to form a strong central core for the City – one that connects the City both in terms of roadways and in terms of the greenways and also walking opportunities for people; and

WHEREAS, Ben Tripp noted that these can be very useful planning tools as we move forward; the next steps if the Planning Commission and City Council decide to approve, would be to look at other corridor plans for areas such as East Main Street; the map is sort of a statement of policy and of these areas being seen as priorities; and

WHEREAS, Vice Chair Thomasson noted he would suggest that East Main Street be the priority; and

WHEREAS, Chair Daulton noted that since we are required by State law to update the Comprehensive Plan every five years; she asked if this could be considered part of looking at the plan; and

WHEREAS, Bill Maxwell, Assistant City Attorney, noted that it is not specifically defined but he thought this is a review of sorts; he further noted he was not sure if it would satisfy the code requirement but could be a part of the process; and

WHEREAS, no other person(s) appeared related to said request;

ON MOTION MADE BY COMMISSIONER KING, SECONDED BY COMMISSIONER CARTER, AND DULY CARRIED, the request to consider adopting resolution of recommendation regarding Urban Development Areas (UDAs) and for amending "The Comprehensive Plan for the City of Salem" to reflect the addition of UDAs be approved – the roll call vote: all aye.

WHEREAS, Commissioner King noted she wanted the consultants to know that the previous evening's public hearing was wonderful; she had a lot of questions and every one of them was answered; and she thanked the consultants for being here; and

WHEREAS, Melinda Payne noted that the City also wanted to thank the consultants for the level of expertise they are providing to us and want to say we really appreciate all they are doing for us; she also wished them safe travels home.

In re: Hold public hearing to consider the request of Salem Specialties, Inc., property owner, for rezoning the property located at 2537 West Main Street (Tax Map #175-1-6) from HBD Highway Business District to LM Light Manufacturing District

The Executive Secretary reported that this date and time had been set to hold a public hearing to consider the request of Salem Specialties, Inc., property owner, for rezoning the

property located at 2537 West Main Street (Tax Map #175-1-6) from HBD Highway Business District to LM Light Manufacturing District; and

WHEREAS, the Executive Secretary further reported that notice of such hearing had been published in the September 3 and 10, 2015, issues of the Salem Times Register, and adjoining property owners were notified by letter mailed on September 7, 2015; and

WHEREAS, staff noted the following: the subject property consist of a single parcel located on the north side of West Main Street adjacent to the existing Salem Specialties property to the west and Traders Outlet to the east; the property is currently vacant; this request is to rezone the 1.196 acre parcel from HBD Highway Business District to LM Light Manufacturing District; the rezoning will allow the company to construct a new 7,500 square foot building and associated parking and site improvements; the new building will be used for custom made metal parts manufacturing of the same nature as those made in the existing building; and

WHEREAS, Barney Horrell with Brushy Mountain Engineering, 3555 Carvins Cove Road, Salem, representing Salem Specialties appeared before the Commission explaining the rezoning request; he noted that business is good for the company, and they are looking to expand their facility; to do this, they purchased a lot to the east of them, the vacant lot between them and the Traders Outlet; the proposed use will be a completely self-sustainable 7,500 square foot metal building with associated parking, etc.; the proposed use is an expansion of their existing facility with the same kind of equipment and the same kind of manufacturing; the zoning request is required because the machine shop designation that they are classified as is not permitted in HBD zoning; he noted that the president of Salem Specialties, Billy Marshall, is in attendance if they have any questions about the operation; and

WHEREAS, Vice Chair Thomasson noted that he is glad to hear that business is good for the company, and Mr. Marshall thanked him for the comment; and

WHEREAS, Billy Marshall, President of Salem Specialties, appeared before the Commission; and

WHEREAS, Vice Chair Thomasson asked Mr. Marshall if the building would be a free standing building separate from the existing facility, and Mr. Marshall noted that it would be; and

WHEREAS, Chair Daulton noted it was her understanding that they will be moving some

of the equipment from the current building to the new building, and Mr. Marshall noted that this was correct; and

WHEREAS, Commissioner King asked him if they have customers who come to pick up or do they ship the products; Mr. Marshall noted that most of their shipments are made by motor freight; Mrs. King asked how do they get the shipments out of the building because looking at the site drawing submitted there is not a lot of parking, but she would not expect there to be a lot of parking; Mr. Marshall noted that they use a forklift, and the shipping is on the west end of the building; and

WHEREAS, Commissioner Robertson asked who are their customers – are they large corporations in manufacturing that need certain parts; Mr. Marshall noted this is correct for the most part; they serve a lot of businesses right here in Salem and one of their big customers is Graham White Manufacturing; but they also serve customers as far as Washington State as of recently – one of their new customers that they are excited about; and

WHEREAS, Commissioner Robertson asked how they found out about them, and Mr. Marshall noted by word of mouth, being able to deliver and deliver them right; and

WHEREAS, Commissioner Carter noted with more businesses like his, the City becomes a better place; and

WHEREAS, Chair Daulton noted on behalf of the Commission they are sorry for the recent loss of his father; Mr. Marshall thanked the Commission and noted that he was the founder of the company in 1965; he further noted that this is their 50th year; and

WHEREAS, no other person(s) appeared related to said request; and

WHEREAS, Chair Daulton noted she appreciates that staff included the "Affadavit of the Mailing" in their packets for the meeting, and she thought this was very helpful for them to know who was notified; and

ON MOTION MADE BY VICE CHAIR THOMASSON, SECONDED BY COMMISSIONER CARTER, AND DULY CARRIED, the Planning Commission of the City of Salem doth recommend to the Council of the City of Salem that the request of Salem Specialties, Inc., property owner, for rezoning the property located at 2537 West Main Street (Tax Map #175-1-6) from HBD Highway Business District to LM Light Manufacturing District be approved – the roll call vote: all aye.

In re: Hold public hearing to consider the request of Otey R. III & Elizabeth A. Hutton, property owners, for the issuance of a Special Exception Permit to allow an accessory apartment in an existing garage on the property located at 218 Burchette Street (Tax Map # 113-2-3)

The Executive Secretary reported that this date and time had been set to hold a public hearing to consider the request of Otey R. III & Elizabeth A. Hutton, property owners, for the issuance of a Special Exception Permit to allow an accessory apartment in an existing garage on the property located at 218 Burchette Street (Tax Map # 113-2-3); and

WHEREAS, the Executive Secretary further reported that notice of such hearing had been published in the September 3 and 10, 2015, issues of the Salem Times Register, and adjoining property owners were notified by letter mailed on September 7, 2015; and

WHEREAS, staff noted the following: the subject property consists of one parcel 2.09 acres located on the east side of Burchette Street between Springfield and McCauley Avenues and is currently occupied by a single family dwelling, garage and barn; the request is for a Special Exception Permit to allow an accessory apartment to be constructed in an existing garage; Mr. Hutton's mother would be the occupant of the dwelling; according to the petitioners' letter, all utilities will be connected to the principal dwelling; the garage will be attached with a carport to the existing dwelling with small porch coverings over each respective entry; the roof line will in effect be a continuation of the existing garage roof line; Staff has requested the petitioner to provide elevation and structural drawings; when this report was prepared, these had not been received; the petitioners have stated the drawings will be provided before the public hearing; and

WHEREAS, Otey Hutton of 218 Burchette Street appeared before the Commission explaining the Special Exception Permit request; Vice Chair Thomasson asked Mr. Hutton if he could tell the Commission a little about the project; Mr. Hutton noted that he and his family wanted to move to Salem for the good schools; they found an awesome house and decided to purchase it; when they started looking at the property, they noticed the two-car garage; in talking to his mother, who has been through some severe financial strain, they thought it might work for her to move into the garage; he noted that he loves his mother very much and they thought it would be great for her to be close by to be able to help with the children, etc.; the thought was to put a bedroom and bathroom in the garage; after getting the approval for a

loan for the project, they found out they would have to get a Special Exception Permit; he noted the apartment will be used by his mom and the utilities will be connected into the main house; further, after conversations with Mary Ellen Wines and Judy Hough, it was determined it would need to be attached to the main structure; the garage will be connected to the house with a carport which will maintain the same roofline; it will maintain the same roof structure which is green metal roof with trusses; the trusses will be extended and attached to the main structure; he noted that he had provided drawings to show this; he further discussed the drawings and how the carport would be attached to the garage and the house; and

WHEREAS, Commissioner King asked him how it would be attached, and Mr. Hutton noted that the Building Official and he would be working this out; obviously there will be a truss system where the carport is and then he indicated to the Commission on the drawing how it would all tie together; and

WHEREAS, Commissioner King asked Mr. Hutton if the roof line indicated on the drawing would attach to the main residence; Mr. Hutton noted that the area she was speaking about is a den and screened porch which is already existing and is attached to the main structure; and

WHEREAS, Commissioner King asked if there would be a kitchenette in the proposed accessory apartment, and Mr. Hutton noted that they are not planning to add a kitchen; Mrs. King asked staff if it would be considered a true apartment if it does not have kitchen facilities; Mary Ellen Wines noted that the City code does not distinguish this; Mrs. King noted that it seems it would be more of an accessory building since it does not have a kitchenette; and

WHEREAS, Vice Chair Thomasson asked Mr. Hutton if his mother is in good health; Mr. Hutton noted that she is in good health; he further noted that she was born in 1960 so she is fairly young and pretty active; and

WHEREAS, Chair Daulton asked if he would be removing the garage doors, and Mr. Hutton noted that they would be; he indicated that there are two windows shown on the front where the existing garage door is located; he further noted they are planning to replace the vinyl siding; Mrs. Daulton asked if the siding would match the rest of the structure, and Mr. Hutton noted that this was correct; and

WHEREAS, Chair Daulton asked if the roofing would be the same as the main structure, and Mr. Hutton indicated this was correct, which is a green metal roof; he noted that the green metal is existing on the garage and also on the screened-in porch; and

WHEREAS, Commissioner King asked if the connecting part that goes all the way across will be green metal rather than the brown shingles shown in the drawing; Mr. Hutton noted that this was correct; and

WHEREAS, Commissioner Robertson asked if the apartment would have heating and air conditioning, and Mr. Hutton noted that it would have heating and air; he stated that they will probably be doing a split system; he further discussed the split systems; and

WHEREAS, Chair Daulton asked if it would be heated, too, and Mr. Hutton noted it would be heated as well; and

WHEREAS, Commissioner Robertson asked if the garage has a cement foundation, and Mr. Hutton noted that it does; and

WHEREAS, no other person(s) appeared related to said request;

A MOTION WAS MADE BY COMMISSIONER CARTER, SECONDED BY VICE CHAIR THOMASSON, that the Planning Commission of the City of Salem doth recommend to the Council of the City of Salem that the request of Otey R. III & Elizabeth A. Hutton, property owners, for the issuance of a Special Exception Permit to allow an accessory apartment in an existing garage on the property located at 218 Burchette Street (Tax Map # 113-2-3) be approved; Commissioner King asked if it was appropriate to ask for an amendment to the motion because she would like to add a condition with regards to the roofing between the two buildings be permanently connected with a the truss system; Assistant City Attorney noted that it was appropriate for an amendment; and

WHEREAS, Assistant City Attorney noted that technically the proponent will need to accept the amendment as part of his motion; Mr. Carter noted that he was in agreement with the amendment; Vice Chair Thomasson noted that, he too was in agreement with the amended motion; and

THE AMENDED MOTION MADE BY COMMISSIONER KING, AGREED TO BY COMMISSIONER CARTER AND VICE CHAIR THOMASSON, AND DULY CARRIED, the Planning Commission of the City of Salem doth recommend to the Council of the City of Salem that the request of Otey R. III and Elizabeth A. Hutton, property owners, for the issuance of a Special Exception Permit to allow an accessory apartment in an existing garage on the property located at 218 Burchette Street (Tax Map #113-2-3) be approved with the condition that the roof truss

be permanently connected between the two structures – the roll call vote: all aye.

In re: Hold public hearing to consider amending Chapter 30 Environment, Article IV Stormwater Management, Division 4 Stormwater Management Plan Contents, Review, and Technical Criteria, Sections 30-141(A) & 30-145(C) of THE CODE OF CITY OF SALEM, VIRGINIA, pertaining to stormwater management

The Executive Secretary reported that this date and time had been set to hold a public hearing to consider amending Chapter 30 Environment, Article IV Stormwater Management, Division 4 Stormwater Management Plan Contents, Review, and Technical Criteria, Sections 30-141(A) & 30-145(C) of THE CODE OF CITY OF SALEM, VIRGINIA, pertaining to stormwater management; and

WHEREAS, the Executive Secretary further reported that notice of such hearing had been published in the September 3 and 10, 2015, issues of the Salem Times Register; and

WHEREAS, staff noted the following: this request is to amend Chapter 30, Article IV Stormwater Management, Division 4 Stormwater Management Plan Contents, Review, and Technical Criteria, pertaining to the stormwater management ordinance; the Department of Environmental Quality has recommended the City change the ordinance in two sections to be more consistent with the Commonwealth VSMP (Virginia Stormwater Management Program); and

WHEREAS, Chuck Van Allman, City Engineer, noted the Department of Environmental Quality's staff had reviewed the City's VSMP ordinance adopted in May 2014; based upon the review of the ordinance and the changes to the Virginia Stormwater Management Program Regulations and the Virginia Stormwater Management Act, the DEQ staff recommended two revisions for Salem's VSMP ordinance to be consistent with the VSMP regulations and Act; he noted as he had discussed in the work session these are relatively minor changes; they are more of semantics than anything else and will not fundamentally change our program or change any status within our program; these will just more accurately reflect what is in the Virginia State model ordinance; and

ON MOTION MADE BY COMMISSIONER KING, SECONDED BY VICE CHAIR THOMASSON,

AND DULY CARRIED, the Planning Commission of the City of Salem doth recommend to the Council of the City of Salem that Chapter 30 Environment, Article IV Stormwater Management, Division 4 Stormwater Management Plan Contents, Review, and Technical Criteria, Sections 30-141(A) & 30-145(C) of THE CODE OF CITY OF SALEM, VIRGINIA, pertaining to stormwater management be amended as follows:

ARTICLE IV STORMWATER MANAGEMENT

DIVISION 4. STORMWATER MANAGEMENT PLAN CONTENTS, REVIEW, AND TECHNICAL CRITERIA

Sec. 30-141. Stormwater Management Plan; Contents of Plan

No application for land disturbance will be approved unless it includes a stormwater management plan, as required by this ordinance, detailing how runoff and associated water quality impacts resulting from the activity will be controlled or managed. A stormwater management plan shall consist of a plan and profile view showing stormwater management facilities and storm sewers, hydrologic and hydraulic computations required as part of the design of facilities and conveyances, and a stormwater management narrative. The stormwater management narrative shall evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The stormwater management plan shall be in accordance with the criteria established in Divisions 4 and 5, where applicable. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities. No land disturbing permit shall be issued until a satisfactory stormwater management plan, or a waiver thereof, shall have undergone a review and been approved by the plan approving authority after determining that the plan or waiver is consistent with the requirements of this Ordinance.

A. The Stormwater Management Plan must apply the stormwater management general and technical criteria set forth in this Ordinance to the entire land-disturbing activity. Individual lots in new residential, commercial, or industrial developments, including those developed under subsequent owners shall not be considered separate land-disturbing activities. A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff, and include the following information: consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to subsurface runoff, and include the following information:

1. Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the predevelopment and post-development drainage areas;
2. Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;
3. A narrative that includes a description of current site conditions and final site conditions;
4. A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;
5. Information on the proposed stormwater management facilities, including:
    a. The type of facilities;
    b. Location, including geographic coordinates;
    c. Acres treated; and
    d. The surface waters or karst features, if present, into which the facility will discharge.
6. Hydrologic and hydraulic computations, including runoff characteristics;
7. Documentation and calculations verifying compliance with the applicable water quality and quantity criteria.
8. A map or maps of the site that depicts the topography of the site and includes:
    a. All contributing drainage areas;
    b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
    c. Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
    d. Current land use including existing structures, roads, and locations of known utilities and easements;
    e. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
    f. The limits of clearing and grading, and the proposed drainage patterns on the site;
    g. Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and

h. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads, and easements.

Sec. 30-145. Technical Criteria for Regulated Land Disturbing Activities

A. To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, City of Salem hereby adopts the technical criteria for regulated land-disturbing activities with land disturbance equal to or greater than 1 acre set forth in Part II B of the Regulations, as amended, expressly to include 9VAC25-870-63 [water quality design criteria requirements]; 9VAC25-870-65 [water quality compliance]; 9VAC25-870-66 [water quantity]; 9VAC25-870-69 [offsite compliance options]; 9VAC25-870-72 [design storms and hydrologic methods]; 9VAC25-870-74 [stormwater harvesting]; 9VAC25-870-76 [linear development project]; and, 9VAC25-870-85 [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this Ordinance, except as expressly set forth in Subsection (c) of this Section.

B. The technical criteria in Subsection (a) shall also apply to all land-disturbing activities over 5,000 square feet but less than 1 acre with the exception of 9VAC25-870-63 [water quality design criteria requirements] and 9VAC25-870-65 [water quality compliance].

C. Grandfathering:

1. Any land-disturbing activity shall be considered grandfathered by the City and shall be subject to the Part II C technical criteria of this chapter provided:
   a. A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the locality to be equivalent thereto (i) was approved by the City prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-870-10, (iii) will comply with the Part II C technical criteria of this chapter, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;
   b. A state permit has not been issued prior to July 1, 2014; and
   c. Land disturbance did not commence prior to July 1, 2014.

2. City, state and federal projects shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of this chapter provided:
    a. There has been an obligation of City, state, or federal funding, in whole or in part, prior to July 1, 2012, or the department has approved a stormwater management plan prior to July 1, 2012.
    b. A state permit has not been issued prior to July 1, 2014; and
    c. Land disturbance did not commence prior to July 1, 2014.
3. Land disturbing activities grandfathered under subsections 1 and 2 of this section shall remain subject to the Part II C technical criteria of this chapter for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.
4. In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Part II C.
5. Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.

-- the roll call vote: all aye.

There being no further business to come before the Commission, the same on motion adjourned at 7:32 p.m.

_____
Executive Secretary

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Chair