



COUNTY OF ALBEMARLE
Department of Community Development
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March 27, 2017

RE: LOD2017-00011 - ADVISORY DETERMINATION OF USE – Accessory uses - Solar Panels

Many different uses may be considered accessory to the primary use, building or structure within Albemarle County. Chapter 18 of the Albemarle County Code (the Zoning Ordinance) does not list each accessory use separately, and it is not required to list each accessory use separately. When there is a question of whether a use is considered primary or accessory to a primary use the zoning administrator must make a determination.

In accordance with Section 31.1 a(2) of the Zoning Ordinance, the following advisory determination for how the use of solar panels in Albemarle County are permitted will be confirmed in writing. This advisory determination does not pertain to solar power generation as a primary or accessory use of the property (i.e., a solar farm). The Zoning Ordinance must be amended, via the Zoning Text Amendment process, to permit solar power generation as a primary use either by right or by special use permit.

Analysis

Each zoning district, which includes residential, commercial, industrial and planned districts, has a list of uses permitted by right and by special use permit. In all residential, industrial and planned districts, and by interpretation of the uses within the commercial districts, accessory uses are a by right use. Accessory use is defined in Section 3 of the Zoning Ordinance as follows;

***Accessory use, building or structure:** A subordinate use, building or structure customarily incidental to and located upon the same lot occupied by the primary use, building, or structure, and located upon land zoned to allow the primary use, building or structure; provided that a subordinate use, building or structure customarily incidental to a primary farm use, building or structure need not be located upon the same lot occupied by the primary farm use, building, or structure.*

The Zoning Ordinance does not list solar panels as either a primary or an accessory use. In the past an interpretation and determination were made, by the zoning administrator, to allow solar panels as an accessory use to dwelling units and commercial or industrial buildings which would be the primary use, building or structure on many parcels in Albemarle County. Since 1996, this determination has allowed the issuance of almost 300 building permits for solar panel installation, with the majority issued since 2010.

With this advisory determination, I am confirming, in writing, the previous interpretation that solar panels are an accessory use to a permitted primary use, building or structure and permitted by right in all zoning districts. A Zoning Text Amendment is not needed to allow solar panels in all zoning districts.



Francis H. MacCall
Principal Planner

Cc: Amelia G. McCulley, Zoning Administrator
John Blair, Deputy County Attorney