

MONTGOMERY COUNTY PLANNING COMMISSION
September 11, 2013 @ 7:00 P.M.
Board Room, Government Center

A G E N D A

CALL TO ORDER:

DETERMINATION OF A QUORUM:

APPROVAL OF AGENDA:

PUBLIC ADDRESS:

PUBLIC HEARING:

1. Request by Cary Hopper (Agent: Gay and Neel, Inc.) to rezone approximately 1.606 acres from Agricultural (A-1) to Multiple Family Residential (RM-1), with possible proffered conditions, to allow two multifamily dwelling units in the form of one duplex and one triplex. The property is located 1534 Gallimore Street; identified as Tax Parcel Nos. 090-C 2 5C and 090-C 2 5A, (Account Nos. 130812 and 070735) in the Riner Magisterial District (District D). The property currently lies in an area designated as Village Expansion in the 2025 Comprehensive Plan and further described as Medium Density Residential within the Riner Village Plan with a proposed gross density of four (4) dwelling units per acre.

- a) Staff Presentation (Brea Hopkins)
- b) Applicant Presentation
- c) Public Comment
- d) Discussion/Action

2. **Comprehensive Plan Amendment: Former Elliston-Lafayette Elementary School**

Request by SHAH Development (Agent: Gay and Neel, Inc.) for an amendment to the Montgomery County 2025 Comprehensive Plan to change the policy map designation of approximately 8 acres of the former Elliston-Lafayette Elementary School property located at 5201 Tango Lane and further identified as Tax Map No. 060-1-A (Parcel ID 070690) from Planned Light Industrial/Commercial to Medium Density Residential or Mixed Use. Adjacent properties may also be considered.

- a) Staff Presentation (Steve Sandy)
- b) Applicant Presentation
- c) Public Comment
- d) Discussion/Action

3. **Comprehensive Plan Amendment: Former Prices Fork Elementary School**

Request by the Montgomery County Planning Commission for an amendment to the 2025 Montgomery County Comprehensive Plan to change the policy map designation of approximately 8.33 acres of the former Prices Fork Elementary School property located at 4237 Prices Fork Road and identified as Tax Map No. 052-A 50 (Parcel ID 070688) from Civic to Mixed Use.

- a) Staff Presentation (Steve Sandy)
- b) Public Comment
- c) Discussion/Action

4. **Zoning Ordinance Amendment: Amateur radio tower**

A proposed amendment to the Zoning Ordinance which will create a definition for "Amateur radio tower", define where those towers are allowed by right and/or by special use permit, and outline regulations for said towers.

- a) Staff Presentation (Dari Jenkins)
- b) Public Comment
- c) Discussion/Action

5. **Zoning Ordinance Amendment: Park and ride lot**

A proposed amendment to the Zoning Ordinance which will modify the definition of "Park and ride lot", define where those lots are allowed by right and/or by special use permit under certain size restraints, and outline regulations for said lots.

- a) Staff Presentation (Dari Jenkins)
- b) Public Comment
- c) Discussion/Action

6. **Annual Zoning Ordinance Changes: State Code and others**

Six additional proposed ordinance amendments to include changes made to State Code by the Virginia General Assembly.

- a) Staff Presentation (Dari Jenkins)
- b) Public Comment
- c) Discussion/Action

OLD BUSINESS:

NEW BUSINESS:

WORK SESSION:

MEETING ADJOURNED:

UPCOMING MEETINGS:

- | | | |
|-------|-------------|---|
| Sept. | 18, 2013 | Planning Commission Site Visit (TBD)
Planning Commission Regular Meeting (7:00 pm) |
| Oct. | 9, 2013 | Planning Commission Public Hearing (7:00 pm) |
| Oct. | 13-15, 2013 | Commonwealth Planning and Zoning Conference, Roanoke |
| Oct. | 16, 2013 | Planning Commission Regular Meeting (7:00 pm); Multipurpose Room #2 |



MONTGOMERY COUNTY DEPARTMENT
OF PLANNING & GIS SERVICES

PLANNING
GIS & MAPPING

755 ROANOKE STREET, SUITE 2A, CHRISTIANSBURG, VIRGINIA 24073-3177

MEMORANDUM

TO: Planning Commission
FROM: Planning Staff *BH*
DATE: September 3, 2013
RE: **Staff Analysis (RZ-2013-11095)**

Request by Cary Hopper (**Agent: Gay and Neel, Inc.**) to rezone approximately 1.606 acres from Agricultural (A-1) to Multiple Family Residential (RM-1), with possible proffered conditions, to allow two multifamily dwelling units in the form of one duplex and one triplex. The property is located **1534 Gallimore Street**; identified as Tax Parcel Nos. 090-C 2 5C and 090-C 2 5A, (Account Nos. 130812 and 070735) in the Riner Magisterial District (District D). The property currently lies in an area designated as Village Expansion in the 2025 Comprehensive Plan and further described as Medium Density Residential within the Riner Village Plan with a proposed gross density of four (4) dwelling units per acre.

I. NATURE OF REQUEST

The applicant, Cary Hopper (Agent: Gay & Neel, Inc.), is requesting rezoning of approximately 1.606 acres from Agricultural (A-1) to Multiple Family Residential (RM-1), with possible proffered conditions, to allow two multifamily dwelling units in the form of one duplex and one triplex.

II. LOCATION

The subject property is located at **1534 Gallimore Street**; identified as Tax Parcel Nos. 090-C 2 5C and 090-C 2 5A, (Account Nos. 130812 and 070735) in the Riner Magisterial District (District D). There is currently a General Business (GB) district along the North side of Radford Rd. (Rt. 11). The properties directly adjoining the applicant's parcel to the west, east and south are currently zoned Agricultural (A-1). The adjoining parcels to the east have an existing non-conforming duplex unit. The remainder properties consist of single family dwellings.

III. BACKGROUND

Cary Hopper, owner, recently purchased the property, advertised as a triplex, at auction. Previously the building had been utilized as a church with associated day care. The day care remained after the church abandoned the site; however, a special use permit was never obtained for its continued use. Under the previous ownership, at least two (2) residential units were constructed within the existing building without proper permits. The current Agricultural (A1) zoning would not allow a duplex or triplex to be constructed.

IV. IMPACTS

The impacts associated with rezoning the property are discussed below. The proposed use of the property, if the rezoning application is granted, is to allow renovation of the existing structure to accommodate three (3) residential units, i.e. triplex and the eventual construction of a duplex on the adjoining property.

Transportation

According to Virginia Department of Transportation the proposed duplex and triplex would not require a commercial entrance. During plan review meeting(s) on August 22, 2013, John Jones, VDOT Land Development Engineer stated that upon first review of the concept plan, the owner may need to remove the excess asphalt between the existing entrances on Gallimore Street. Once the suggested modifications are made the entrance will be sufficient for the proposed triplex. He further stated the proposed entrance onto Blair Street for the duplex would be sufficient. Mr. Jones requested that any plantings proposed for the site be installed in a way to prevent blocking site distance at the entrances.

Infrastructure

The existing structure is currently served by PSA water and sewer through a 6" water main and 6" sewer line, which extends through the property. According to a letter from Mr. Bob Fronk, PSA Director, August 6, 2013 (see attached), both water and sanitary sewer service can be provided to the proposed duplex; however, the owner would need to confirm that the sewer line would be adequate and set up a maintenance agreement for the sewer line to address future maintenance responsibilities. While the owner has indicated public utilities will be utilized, there was not a proffer to connect the proposed duplex public water and sewer.

Emergency Services

Montgomery County Emergency Services Director, Neal Turner, reviewed the proposed development and expressed concern with access to the rear of the proposed duplex in case of fire. He requested that the existing gravel drive be extended to the rear of the proposed units to allow for emergency access. Gay & Neel, Inc. revised the concept plan to depict the extension and widening of the gravel drive to address Mr. Turner's concerns (see attached). Because of topography of site there may be some challenges to provide optimal access for emergency service vehicles to the rear of the existing structure; however, Mr. Turner confirmed there is a fire hydrant nearby to assist fire personnel.

Schools

The owner has proffered a maximum of five (5) dwelling units (see attached proffer statement dated August 9, 2013); thereby, limiting the impact on the school system. In the past the calculation utilized by the school system has been 0.6 children per unit. For this development that would be an estimated total of three (3) children added to the school system. Students in this area attend the Auburn school strand. As of the date of this analysis, comments have not been received from Montgomery County Public Schools.

V. COMPREHENSIVE PLAN

The subject property is in an area designated "Village Expansion" in the 2025 Comprehensive Plan and further described as "Medium Density Residential" within the Plum Creek Village Plan.

Village Expansion

According to section PLU 1.6.3 of the Montgomery County Comprehensive Plan:

Village Expansion Areas are intended to provide an alternative to scattered rural residential development and to provide an opportunity to enhance the vitality of existing villages by providing for compatible expansions of residential and employment uses. Village expansion areas are adjacent to existing villages where appropriate new development can be accommodated while retaining the viability and character of the historic village core.

Furthermore, PCV 1.7.2 , provides the following guidance:

Land uses in Medium Density Residential Neighborhoods should be limited to single-family dwelling, secondary accessory dwellings, limited multifamily dwelling units (duplexes, triplexes, and quadplexes) which fit with the character of the neighborhood, home occupations, and appropriate home businesses.

Comprehensive Plan Summary

The applicant has proposed that a total of 1.606 acres be rezoned to a higher intensity land use from Agriculture (A-1) to Residential Multi-family (RM1). The applicant has prepared a concept plan that shows the redevelopment of a currently vacant structure to be used as a triplex and a proposed duplex unit on the adjoining parcel. The proposed gross density for the Medium Density Residential area is four (4) dwelling units per acre. The allowed density in a Residential Multi-family (RM1) district is eight (8) single family attached units per acre or twelve (12) multifamily units per acre. The owner has proffered a maximum of five (5) dwelling units, which is less than the proposed gross density in the comprehensive plan and the allowed density for the zoning district.

The proposal is consistent with the Planning and Land Use chapter of the Montgomery County 2025 Comprehensive Plan as well as the Plum Creek Village Plan. As proposed, this development meets the goals and objectives of the future land use for this area and does qualify for consideration of rezoning from Agriculture (A-1) to Residential Multi-Family (RM-1).

VI. ANALYSIS

The subject parcel qualifies for rezoning to Residential Multi-Family (RM1) per 10-28 of the Montgomery County Code and complies with the goals of the Plum Creek Village Plan. Furthermore, the proposed triplex and duplex would be permitted as by-right uses in Residential Multi-Family (RM1) zoning district, according to section 10-27(3) of the zoning ordinance.

The proposed zoning changes will not present a significant change in land use compared to the existing surrounding residential uses and would allow the owner to complete the process necessary to bring the existing structure into compliance with building and zoning regulations. Given that the structure was renovated by previous owners to allow residential use without proper permits; if the property is rezoned, the owner will be required obtain all required permits and make any necessary structural improvements prior to renting the residential units. In addition, a site plan will be required depicting the appropriate parking, landscaping, and buffer yards. The applicant has shown parking requirements can be met on the concept

plan and submitted a proffer relating to the landscaping; however a proffer has not been submitted regarding obtaining permits for the existing structure to bring it into compliance. It appears the proposed use is more conducive to the site than the previously approved use given the size of the lot and topography of the property.

VII. STAFF RECOMMENDATION

Staff recommends **approval** of the proposed rezoning of 1.606 acres from Agriculture (A-1) to Residential Multi-Family (RM1) with the following proffered conditions:

1. The Property will be developed substantially in accordance with the Conceptual Layout prepared by Gay & Neel, dated August 1st, 2013 (the "Concept Development Plan").
2. No more than 5 residential dwelling units shall be constructed on the Property.
3. Access to the existing building proposed for multi-family use shall be via the existing entrance on Gallimore Street. Access to the proposed two-family building shall be a proposed private driveway off of Blair Street. No access shall be proposed or allowed directly from Route 11. All improvements shall be at the sole expense of the developer.
4. The proposed development will preserve existing vegetation to the greatest extent possible. Proposed buffer yard shall be in conformance with the requirements of the zoning ordinance and shall be installed prior to the issuance of a certificate of occupancy. Existing vegetation can be credited towards the buffer requirements. Buffer shall not impede sight distance at the proposed or existing entrance.

At the time this report was issued, the Planning and GIS Services office had not been contacted regarding this request. Adjoining property owners were notified in accordance with Montgomery County Code Section 10-52(3). However, consideration should be given to adjacent property owners or other interested citizens attending the public hearing to express their views regarding this request.

Enclosures: PSA Letter Dated August 6, 2013
VDOT Comments
Aerial Map
Zoning Map
Site Photos
Concept Sketch
Application Materials



MONTGOMERY COUNTY
PUBLIC SERVICE AUTHORITY

Government Center
Suite 2I
755 Roanoke Street
Christiansburg, VA 24073-3185
August 6, 2013

Gary D. Creed, Chairman
William H. Brown, Vice-Chair
Mary W. Biggs, Secretary-Treasurer
Matthew R. Gabriele, Member
Annette S. Perkins, Member
James D. Pofitis, Member
Christopher A. Tuck, Member

Robert C. Fronk, PE
PSA Director

Mr. Cary Hopper
707 South Main Street
Blacksburg, VA 24060

RE: Availability No. 13-35
Proposed Duplex
Blair Street
Tax Map No. 090-C 2 5C
Parcel ID 130812
Water/Sewer

Dear Mr. Hopper:

Public water and sanitary sewer are available to this proposed duplex along Blair Street, Tax Map No. 090-C 2 5C.

Public water service can be provided by a service connection to the 6" water main located along Blair Street adjacent to the property. The water pressure at the point of connection would be approximately 110 pounds per square inch (psi). Your plumber will need to install a pressure-reducing valve in a meter box next to the water meter at the road right-of-way line to reduce the water pressure to 80 psi or less. The facility fee is \$2,500.00 per unit or \$5,000 for both units of the proposed duplex. The connection fee is based upon the water meter size and is \$750.00 for a 5/8" meter service and \$900 for a 1" meter service. The fees include the connection to the main, meter box, setter and water meter at the road right-of-way/property line on the property side of Blair Street. It is your responsibility to install the service lateral from the meter to the building under the provisions of the plumbing code. The installation and maintenance of the pressure-reducing valve shall be the property owner's responsibility.

Sanitary sewer can be provided by service connection to the sewer main located along Radford Road adjacent to the subject property. **Our records indicate that there is a 6" sewer line within this property, but do not confirm the adequacy of this line for the existing number of connections. You would need to perform an engineering study of this line to confirm that it would be adequate for both existing and proposed new connections before any additional connections could be made to it. You would also need to set up a maintenance agreement for this sewer line to address future maintenance responsibilities with the other users.** You must verify that there is a minimum of two feet of fall from the building service elevation to the top of the sewer main. If adequate vertical separation does not exist, you will be required to install an individual sewer pump and force main with a connection to the sewer cleanout per PSA construction standards. Be advised that this facility will discharge into a sewer system served by a public sewer pump station requiring a Sewer Pump Station Facility Fee. The sewer facility fee is \$3,000.00, Sewer Pump Station Facility fee is \$750.00 and the sewer connection fee is \$750.00 for a total cost of \$4,500.00 per unit or \$9,000.00 for both units of the proposed duplex. The fees include the connection to the sewer main and sewer cleanout at the Radford Road right-of-way line. The owner would be responsible for the complete installation of the sewer lateral from the building to the sewer cleanout under the provisions of the plumbing code.

Page Two
Mr. Cary Hopper
August 6, 2013

The water and sewer connection fees include an inspection fee for the water and sewer service lines between the water meter and sewer cleanout to the building. These inspections must be completed and approved prior to issuance of an occupancy permit. You should coordinate the inspections with the PSA prior to installation of the water and sewer service lines.

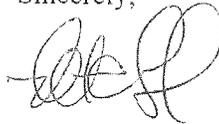
If the owner wants to proceed with this service, please make application and pay the appropriate fee at the Finance Office in the Montgomery County Government Center at 755 Roanoke Street. You should also install a stake labeled "water meter" at the desired location of the water meter. If the proposed meter location is not marked, the PSA will install the meter at their discretion. *This letter and stated fees are only valid to August 1, 2014.*

Please be advised that all PSA water and sewer systems have a fixed number of available connections. Connections are reserved by payment of facility and connection fees, provided service is currently available to the subject property.

You must submit another application for water and sewer service if you plan to subdivide this property. Please be advised that water and sewer fees would be charged for each residential unit such that a duplex would be considered as two residential units.

If you should have questions or need additional clarification of the above information, please call me at 381-1997.

Sincerely,



Robert C. Fronk, PE
PSA Director

cc: Utility Billings

Brea G Hopkins

From: Jones, JohnC (VDOT) <JohnC.Jones@VDOT.Virginia.gov>
Sent: Friday, August 23, 2013 1:33 PM
To: Brea G Hopkins
Cc: Burton, Doug, P.E. (VDOT)
Subject: Hopper Plum Creek Rezoning

Brea,

As stated in the rezoning meeting yesterday the private entrance to the proposed duplex on Blair Street as shown on the conceptual plan submitted by Gay & Neel, Inc. will be sufficient. Also the existing entrances off Gallimore street will be satisfactory provided the excess asphalt between the entrances and the right of way line is saw cut and removed. Any planting proposed for this location should not block the sight distance at the entrances.

Thanks,

John

John C. Jones
Land Development Engineer
(540) 381-7198
(540) 381-7205 - fax



Cary Hopper Request for Rezoning

A1 to RM1

Parcel ID(s): 070735
130812

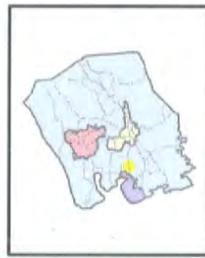
- State Roads
- Interstate Highway
- Private Roads (Named)
- Planned Highway
- Hydrology
- Tax Parcels
- Subject Properties (Hopper)

Zoning Class

- A1 - Agriculture
- GB - General Business

FEMA Flood Hazard Area (Effective 9/25/09)

- Flood Zone
- AE
- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- FLOODWAY



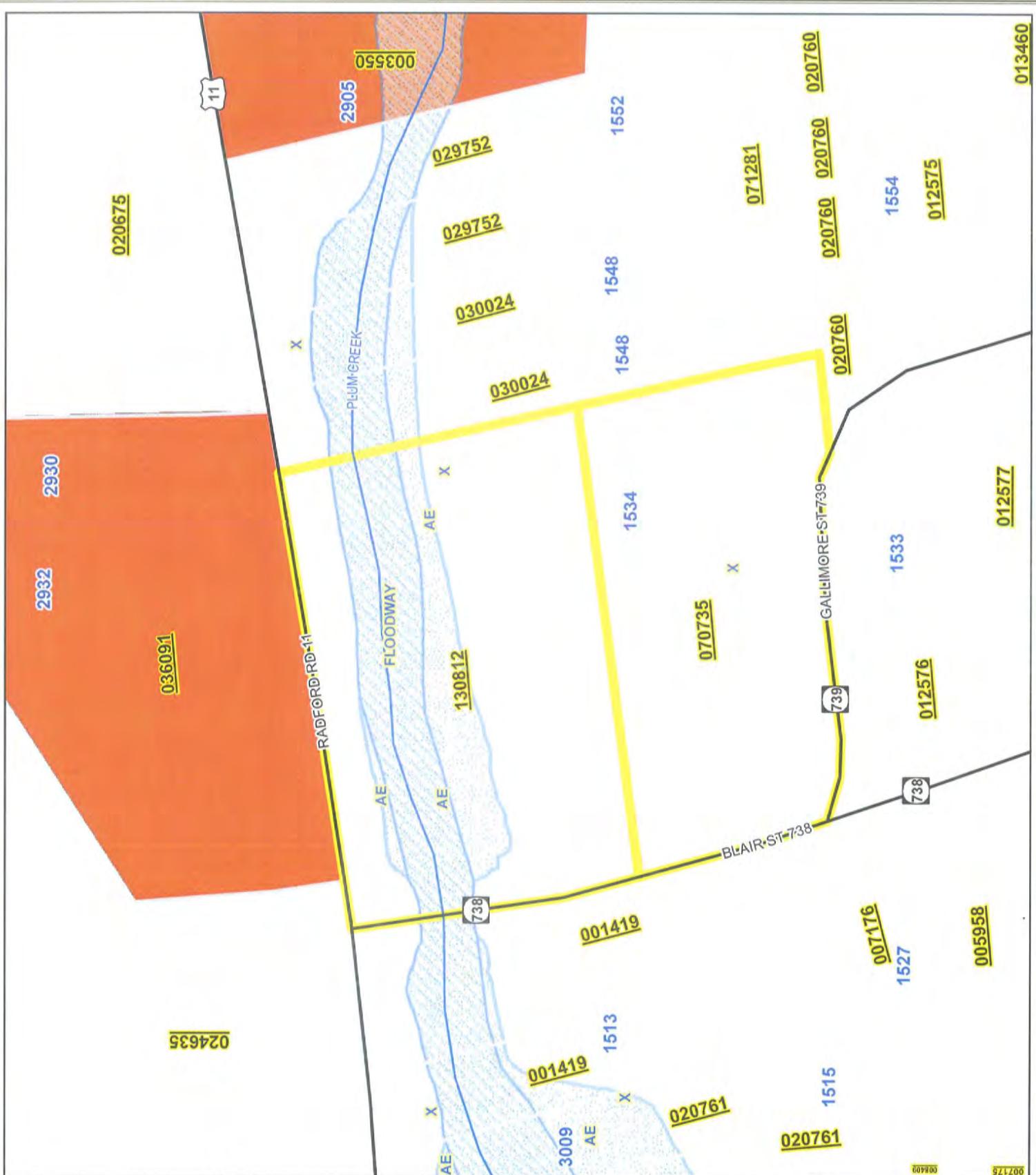
Montgomery County, Virginia

THIS MAP IS PROVIDED AS A SERVICE TO THE USER AND IS NOT TO BE USED FOR ANY PURPOSES OTHER THAN THE INTENDED PURPOSE. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND AUTHORITIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND AUTHORITIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND AUTHORITIES.

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Prepared by Montgomery County, Va
Planning & GIS Services, 8/2/2013





VIEW OF PROPERTY FROM BLAIR STREET



VIEW LOOKING TOWARD RADFORD RD FROM VACANT PROPERTY



VIEW LOOKING TOWARD BLAIR ST FROM VACANT PROPERTY



VIEW OF VACANT LOT & RADFORD RD FROM EXISTING STRUCTURE



VIEW LOOKING TOWARD BLAIR ST FROM EXISTING STRUCTURE



VIEW LOOKING TOWARD GALLIMORE ST FROM EXISTING STRUCTURE



EXISTING STRUCTURE



REAR OF EXISTING STRUCTURE



PARKING AND SIDE ENTRANCE TO EXISTING STRUCTURE



EXISTING PARKING AREA & ADJOINING PROPERTY (DUPLEX)



AREA OF EXISTING PAVEMENT TO BE REMOVED PER VDOT COMMENTS



VIEW OF PROPERTIES LOOKING FROM RADFORD RD

Application to Planning Commission and Board of Supervisors

Application For: (check appropriate boxes)

Rezoning Rezoning & Special Use Permit Special Use Permit

Owner/Applicant Information: (Use current mailing/contact information for all property owners. An additional sheet may be attached for multiple owners.)

Property Owner: <u>Cary Hopper</u>	Agent: <u>Gay and Neel, Inc.</u>
Address: <u>707 South Main Street</u>	Address: <u>1260 Radford Street</u>
<u>Blacksburg, VA 24060</u>	<u>Christiansburg, VA 24073</u>
Phone 1: <u>(540) 641-1768</u>	Phone 1: <u>(540) 381-6011</u>
Phone 2: _____	Phone 2: <u>(540) 381-2773 Fax</u>
Email: <u>caryhopper@msn.com</u>	Email: <u>mtomlinson@gayandneel.com</u>

Location of Property/ Site Address: 1534 Gallimore Street, Christiansburg, VA

Legal Record of Property: Total Area: 1.606 Acres Magisterial District _____

Parcel ID: 070735, 130812 Tax Parcel Number(s): 090-C 2 5A, 090-C 2 5C

Rezoning Details: Current Zoning District: A-1 Requested Zoning District: RM-1

Desired Use(s): Muti-Family Residential (Triplex/Duplex)

Special Use Permit: Current Zoning District _____ Total Area/Acres: _____

Desired Use(s): _____

Comprehensive Plan Designation: Village Expansion (Plum Creek)

Traffic Impact Analysis Required: Yes (payment enclosed) No

I certify that the information supplied on this application and on the attachments provided (maps or other information) is accurate and true to the best of my knowledge. In addition, I hereby grant permission to the agents and employees of Montgomery County and State of Virginia to enter the above property for the purposes of processing and reviewing the above application.

Cary Hopper 8-1-13
Property Owner(s) Signature Date

Matt Paul 8/1/13
Agent's Signature Date

.....
FOR OFFICE USE ONLY

Date Received: _____ Application Number: _____

Traffic Impact Analysis and Payment Received: Yes No Date Submitted to VDOT: _____

Hopper Plum Creek Multi-Family Rezoning Narrative

Comprehensive Plan Justification Statement

The following submittal is a rezoning application for Tax Parcels 090-C 2 5A and 090-C 2 5C (Parcel ID's 070735 and 130812) located at 1534 Gallimore Street, Christiansburg, Virginia 24073 in the Plum Creek village. The Owner, Cary Hopper, wishes to rezone the existing parcels from A-1, Agricultural, to RM-1, Multi-Family Residential, in order to legitimize the current use.

The Owner purchased the properties at auction, with the existing 090-C 2 5A parcel being rented as a triplex. However, it was determined that the parcel was not zoned for multi-family residential usage and thus the current use was illegal. A rezoning to RM-1 would allow the property to continue being utilized as a multi-family residential property, which is in keeping with the Montgomery County 2025 Comprehensive Plan. The properties lie within the Plum Creek Village Expansion Area (Medium-Density Residential) which, according to the Comprehensive Plan, are intended to be predominately residential in order "to provide an alternative to scattered rural residential development." Furthermore, according to the Plum Creek Village Plan, "the Medium Density neighborhoods may include a wider variety of housing types, including: single-family dwellings, accessory dwellings, **duplexes, triplexes**, and quadplexes as infill."

Both parcels, including the concept plan, meet all requirements for rezoning to RM-1 including the following:

- Minimum area required to create RM-1 district (1 acre of total contiguous land)
- Minimum lot size (6,000 square feet)
- Minimum lot width (64')
- Minimum active green space (15%) in the form of a playground area
- Lot access from a hard-surfaced VDOT road
- Maximum impervious coverage (60%)
- Maximum building coverage (40%)
- Minimum yards
 - Front: 40'
 - Side 15'
- Maximum building height (35')
- Availability of water and sewer (Confirmed the existing triplex is server by public water and sanitary sewer per Montgomery County PSA)

Additional Rezoning Requirements

As previous stated, the proposed zoning district classification is consistent with both the Comprehensive Plan and the Plum Creek Village Expansion Plan, and none of the proposed changes will adversely affect the additional rezoning requirements listed.

1534 Gallimore Street
PROFFER STATEMENT

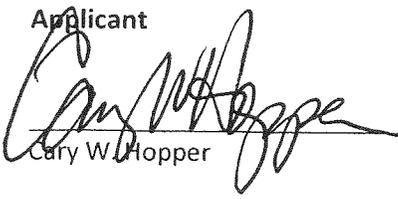
AUGUST 8, 2013

Proffer Statement for the *Rezoning Application for Tax Parcels 090-C 2 5A and 090-C 2 5 C* (the "Property") from A-1 to RM-1 in the Montgomery County Zoning Ordinance.

Pursuant to Section 10-54(i) of the Montgomery County Zoning Ordinance, the Owner hereby voluntarily proffers that the property which is the subject of this Rezoning Application will be developed in accordance with the following conditions, if and only if, approval of Ordinance # _____ is granted, and the property is rezoned as requested. The Applicant, the Owners, their Successors and Assigns, voluntarily proffer the following conditions for the property as follows:

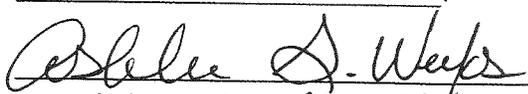
1. **Conceptual Layout**
The Property will be developed substantially in accordance with the Conceptual Layout prepared by Gay & Neel, dated August 1st, 2013 (the "Concept Development Plan").
2. **Number of Units**
No more than 5 residential dwelling units shall be constructed on the Property.
3. **Access**
Access to the existing building proposed for multi-family use shall be via the existing entrance on Gallimore Street. Access to the proposed two-family building shall be a proposed private driveway off of Blair Street. No access shall be proposed or allowed directly from Route 11. All improvements shall be at the sole expense of the developer.
4. **Landscaping**
The proposed development will preserve existing vegetation to the greatest extent possible. Proposed buffer yard shall be in conformance with the requirements of the zoning ordinance and shall be installed prior to the issuance of a certificate of occupancy. Existing vegetation can be credited towards the buffer requirements. Buffer shall not impede sight distance at the proposed or existing entrance.

I (we) hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission.

Applicant

Cary W. Hopper
Date 8-9-13

Commonwealth of Virginia
County of Montgomery

The foregoing instrument was acknowledged before me this 9th day of August, 2013, by Cary W. Hopper of _____


My commission expires: May 31, 2017
Notary Public

ASHLEE S. WEEKS
NOTARY PUBLIC
REG. #310286
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES MAY 31, 2017



MONTGOMERY COUNTY DEPARTMENT
OF PLANNING & GIS SERVICES

PLANNING
GIS & MAPPING

755 ROANOKE STREET, SUITE 2A, CHRISTIANSBURG, VIRGINIA 24073-3177

MEMORANDUM

Date: September 5, 2013

To: Planning Commission

From: Steven Sandy, Planning Director

RE: SHAH Development (Agent: Gay and Neel, Inc.) requests an amendment to the Montgomery County 2025 Comprehensive Plan to change the policy map designation of approximately 8 acres of the former Elliston-Lafayette Elementary School property located at 5201 Tango Lane and further identified as Tax Map No. 060-1-A (Parcel ID 070690) from Planned Light Industrial/Commercial to Medium Density Residential or Mixed Use.

I. Nature of Request

SHAH Development (Agent: Gay and Neel, Inc.) requests an amendment to the Montgomery County 2025 Comprehensive Plan to change the policy map designation of approximately 8 acres of the former Elliston-Lafayette Elementary School property located at 5201 Tango Lane and further identified as Tax Map No. 060-1-A (Parcel ID 070690). The property is currently designated as Planned Light Industrial/Commercial in the [Lafayette Route 11/460 Corridor Plan](#). The request is to change this designation to Medium Density Residential. The property is located in the Shawsville Magisterial District (District E).

In addition, the Montgomery County Planning Commission expressed their desire to also consider the following surrounding parcels for amendment from Planned Light Industrial/Commercial to Medium Density Residential or Mixed Use: 9694 Roanoke Rd., Tax #59-A-66 (Parcel ID 020467); 9700 Roanoke Rd., Tax #60-1-1B (Parcel ID 020585); 5221 Tango Ln., Tax #60-1-1C (Parcel ID 003238), 9820 Roanoke Rd., Tax #60-1-1L (Parcel ID 029253); 6120 North Fork Road., Tax #60-1-1F (Parcel ID 015704); and 5216 Tango Ln., Tax #60-1-1D, 1E (Parcel ID 013183).

II. Background

Subsequent to the adoption of the 2025 Comprehensive Plan in November, 2004, the County established a policy for the periodic consideration of changes to Planning Policy Area Designations (Ordinance ORD-FY-05-26). This policy allows comprehensive plan amendments to be initiated by the landowner, Planning Commission or Board of Supervisors. These requests are accepted and processed semi-annually in February and August each year.

In accordance with section PLU 1.1.1b Policy Area Designations, such a request to change the designation of a particular Planning Policy Area shall be approved only if one or more of the following criteria are met:

- The subject property was misinterpreted or overlooked in the comprehensive plan.
- Conditions have changed substantially since the last comprehensive plan update necessitating a change (e.g. changes in surrounding land use or economic conditions).
- An undue hardship exists which substantially limits the use of the subject property.
- The amendment will effectively aid in the implementation of other goals of the comprehensive plan.

All requests are forwarded to the Planning Commission for review and conducting a public hearing on each request. The Planning Commission shall approve, amend and approve or disapprove the amendment and make its recommendation to the Board of Supervisors. The Board shall also hold a public hearing and take action to approve, amend and approve or deny the amendment request within 90 days of the Planning Commission's recommendation.

The Planning Commission discussed this proposal in August and requested that staff send notices to all potentially affected property owners in order to receive feedback on possibly changing the land use designation of six (6) other adjoining parcels. Some property owners expressed concerns about changing the future land use designation from Planned Light Industrial/Commercial to Medium Density Residential and reducing the amount of money they might receive from the potential sale/development of their property. Others expressed support for changing the designation to a Mixed Use designation which would allow a greater flexibility of use types for the property.

III. Analysis

This property was originally identified as Village Expansion with the adoption of the 2025 Comprehensive Plan. The designation was further identified as Civic when the Elliston/Lafayette Village Plan was adopted in June 2007. The property was designated as Civic due to presence of elementary school at that time. In 2011, the County received consultant assistance as part of a VDOT grant related to the development of Urban Development Areas (UDA). The consultant held two public meetings in the community to gather comments from citizens and key stakeholders. The key issues identified from those meetings were:

1. Support economic development opportunities.
2. Improve the safety of Route 11/460 for all users.
3. Maintain or enhance the scenic quality of the corridor.

In March 2012, the Board of Supervisors adopted the Lafayette Route 11/460 Corridor Plan which included revised future land use designations for a portion of the Elliston/Lafayette Village Plan. The future land use designation of the school site (Civic) and surrounding properties were changed at that time from Medium Density Residential to Planned Light Industrial/Commercial.

The Commission should remain cognizant of economic trends in the area when considering this proposed change in future land use designation. Conditions have changed in the immediate area since the school has been demolished and the Board of Supervisors has sold the former

school site at auction. In addition, there has been no additional development progress with the proposed intermodal site and the information available at this time from VDOT and Norfolk Southern is it probably will not be built in the near future. Since the property is not directly adjacent to the proposed intermodal site, the delay may warrant an economic change from industrial to residential or possibly mixed use. The new owner of the former school site would like to develop single-family attached (townhouses) residential housing. A rezoning request was submitted on September 2nd for this property to allow 64 townhouse units on the 8 acre tract.

PLU 1.1.1b also mentions another criterion that states, “The amendment will effectively aid in the implementation of other goals of the comprehensive plan”. One of the goals of the Elliston/Lafayette Village Plan related to housing is found in ELV 8.0. This goal states that the County will “Encourage the development of a broad range of housing options to provide choice and opportunity to households with a variety of income levels”. This goal includes action steps to complete this goal as follows:

- Given that affordable housing is a regional rather than a local issue, work with Roanoke County and with the jurisdictions involved in the New River PDC to develop a regional approach to providing quality affordable housing.
- Actively work with developers to provide affordable housing options in their developments.
- Pursue redevelopment grants which provide funding for the development of affordable housing in redeveloped neighborhoods and rehabilitated structures.

All adjoining properties are designated as Planned Light Industrial/Commercial and are zoned Agriculture A-1. Properties to the east consist of single-family residential uses. The adjoining property to the west is residential but does have a special use permit for a contractor’s equipment storage yard that was approved in 2000.

IV. Recommendation

Staff preliminarily recommends approval of the amendment to change the future land use designation of 8.01 acres identified as Tax Map # 60-1-A (070690) from Planned Light Industrial/Commercial to a Mixed Use designation since conditions have changed on the site and the anticipated change due to the future installation of the intermodal site is still unclear. This change allows a greater flexibility in uses on this property for the future. Staff believes conditions have changed substantially since the last comprehensive plan update in 2012 necessitating a change. This request also furthers the housing goal of the comprehensive plan. Accordingly, staff believes this request complies with the criteria of PLU 1.1.1b.

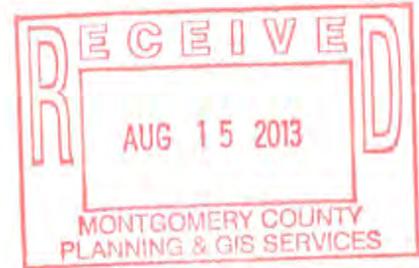
Staff also preliminarily recommends approval of the amendment to change the future land use designation of the following parcels bound by the same roads and railroad from Planned Light Industrial/Commercial to Mixed Use designation:

Property Owner	Tax Map #	Parcel ID
Winston	Map #59-A-66	Parcel # 020467
Melton	Map #60-1-1B	Parcel # 020585
Smith	Map #60-1-1C	Parcel # 003238
Carrier	Map #60-1-1L	Parcel # 029253
Reed	Map #60-1-1F	Parcel # 015704
Fridley	Map #60-1-1D,1E	Parcel # 013183

At the time of this report, staff has not been contacted regarding this proposed amendment. Adjoining property owners have been notified of the upcoming public hearings involving a potential change to the land use designation on their property. Adjoining property owners and interested citizens may be present at the public hearing(s) to express their views regarding this request.

Attachments: Letter Requesting Comprehensive Plan Amendment
Subject Property Future Land Use Map
ORD-FY-05-26 Comprehensive Plan Amendment Policy

August 14, 2013



Mr. Steve Sandy
Montgomery County
Department of Planning & GIS Services
755 Roanoke Street, Suite 2A
Christiansburg, VA 24073-3177

RE: Elliston Lafayette Elementary School
Job No. 2440.0

Mr. Sandy:

As agent for Shah Development, I would like to submit a request to change the future land use designation of the old Elliston-Lafayette Elementary School property. Shah recently purchased the property at auction.

We would request that the future land use be designated as Medium Density Residential. The initial Elliston and Lafayette Village Plan, adopted in 2007, designated the future land use of the property as Civic since the Elementary School was still in operation at that time. The more recently adopted Lafayette Area Plan identifies the future land use as 'Planned Light Industrial/Commercial'. This designation also applies to the neighboring residential properties to the east and west. We fully recognize the need for a mix of land uses within the community, but feel that we should better match the long held residential land uses immediately surrounding the property.

Please don't hesitate to call and/or email me with any questions or concerns you may have.

Sincerely,
Gay and Neel, Inc.



John T. Neel, P.E.
President

JTN/asw



Former Elliston/Lafayette Elementary School

Comprehensive Plan Amendment

Legend

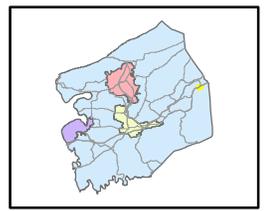
- State Roads
- Interstate Highway
- Private Roads (Named)
- Planned Highway
- Railroad
- Hydrology
- Tax Parcels

Lafayette Land Use Concept Map

- Future Land Use**
- Commercial
 - Low Density Residential
 - Medium Density Residential
 - Planned Light Industrial/Commercial
 - Right of Way
 - Lafayette Route 11/460 Corridor Plan

Policy Map and Village Land Use

- Class**
- Civic
 - Low Density Residential
 - Medium Density Residential
 - High Density Residential
 - Traditional Neighborhood Design (TDC)
 - Mixed Use
 - Open Space
 - Right of Way



Montgomery County, Virginia
DISCLAIMER

INFORMATION SHOWN ARE TO BE USED FOR REFERENCE PURPOSES ONLY. THE MONTGOMERY COUNTY BOARD OF SUPERVISORS NOR PLANNING AND GIS SERVICES ARE NOT RESPONSIBLE FOR ANY INACCURACIES HEREIN. NO RESPONSIBILITY IS ASSUMED FOR DAMAGES OR OTHER LIABILITIES.

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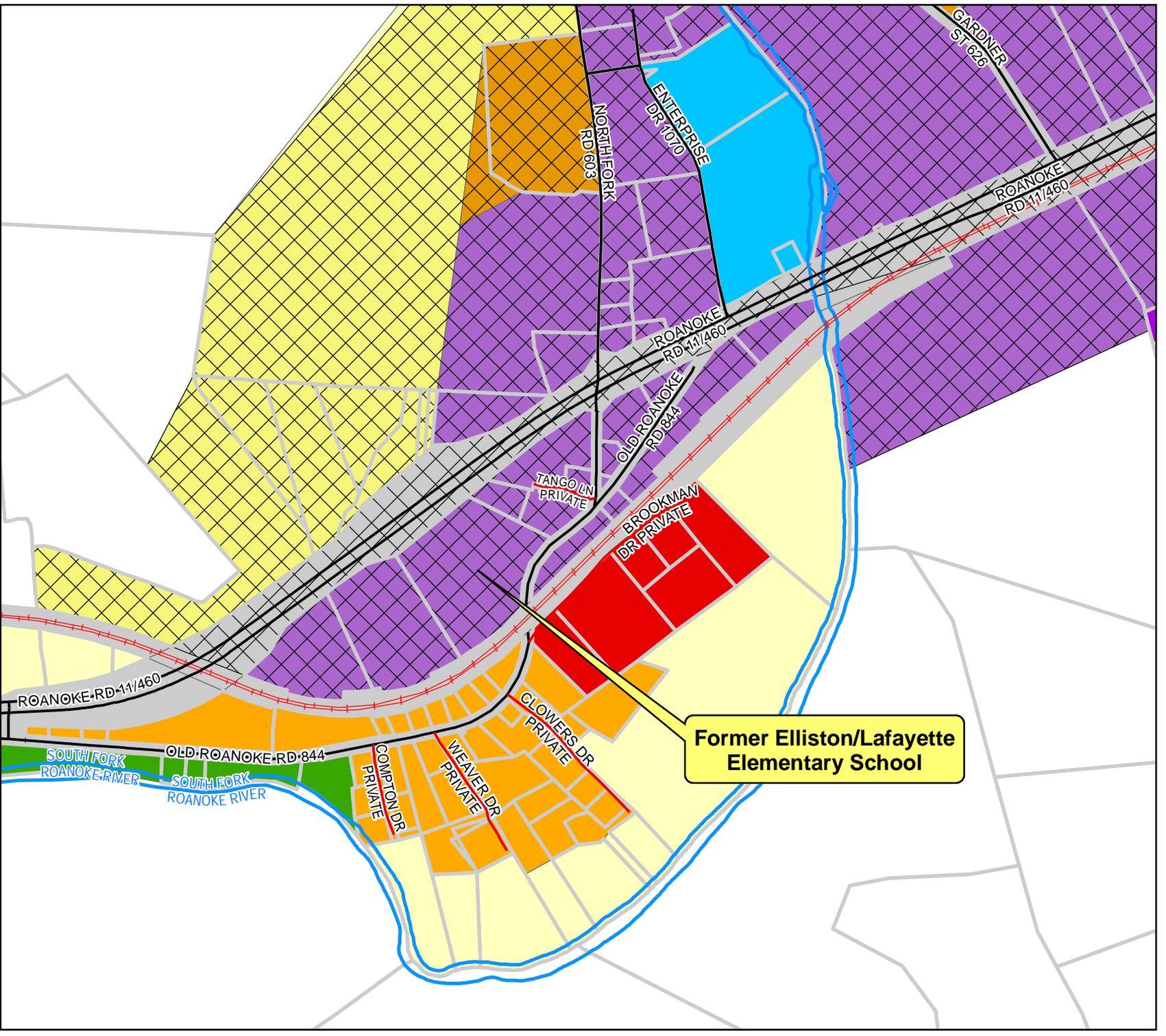
IN NO EVENT SHALL MONTGOMERY CO. BE LIABLE FOR ANY DAMAGES THAT MIGHT ARISE FROM THE USE OR ANY INFORMATION SHOWN.

EXACT LOCATION OF ANY FLOOD ZONE TO BE CERTIFIED BY LICENSED LAND SURVEYOR, ENGINEER, OR ARCHITECT.

CONTOURS SHOWN ARE FOR VISUAL REFERENCE. TO AVOID THE RISK OF MISINTERPRETATION, INVALID RESULTS, AND ERRONEOUS CONCLUSIONS, ORIGINAL LIDAR GENERATED CONTOUR DATA SHOULD BE USED FOR LAND DEVELOPMENT, SURVEY AND ENGINEERING PURPOSES.



Prepared by Montgomery County, Va Planning & GIS Services, 8/21/2013



Former Elliston/Lafayette Elementary School

Comprehensive Plan Amendment Request

Shah Development Elliston-Lafayette Elementary School

Potential future land use designation change




Montgomery County, Virginia
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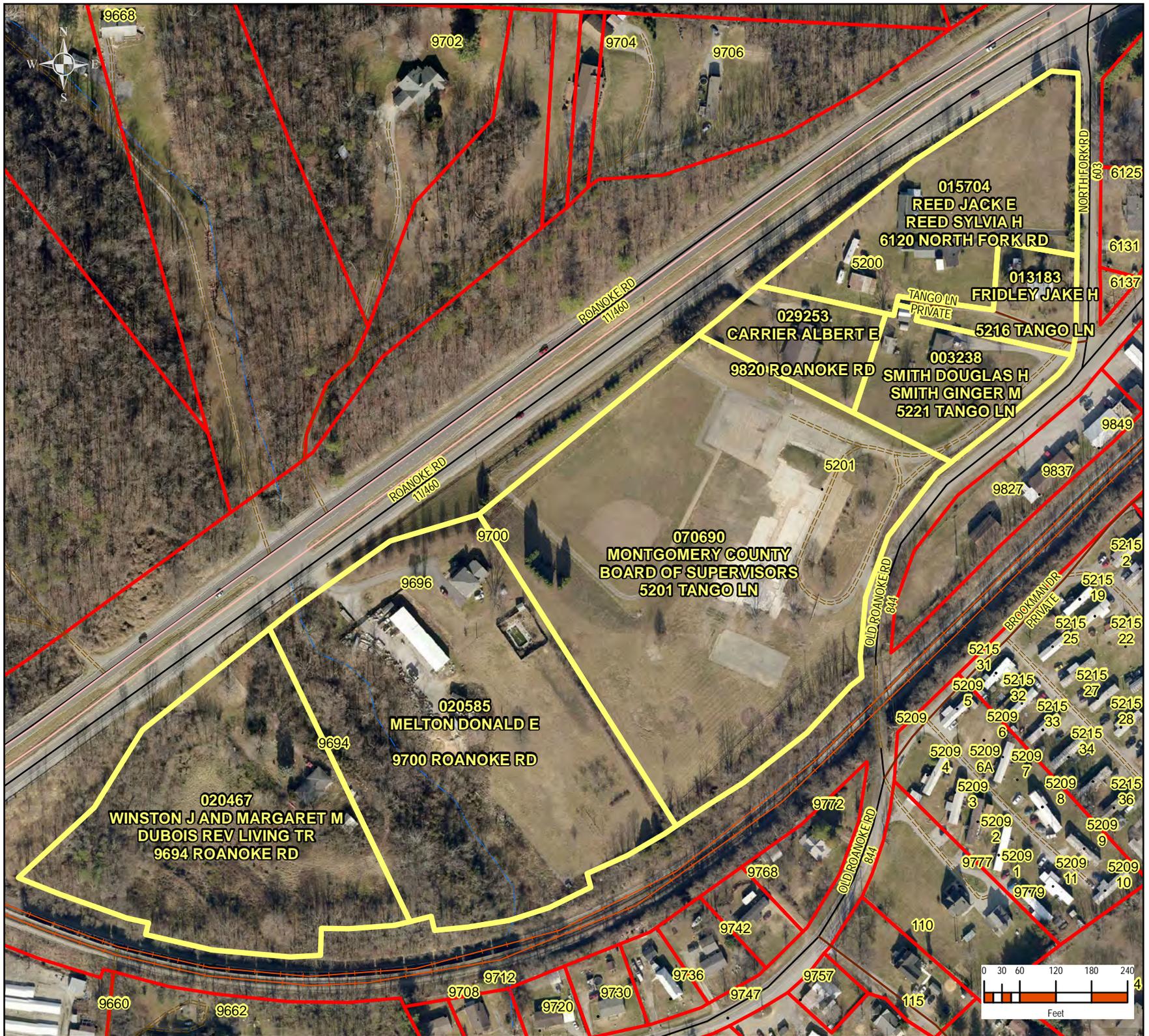
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Prepared by Montgomery County, Va Planning & GIS Services, 8/15/2013



AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY
OF MONTGOMERY, VIRGINIA HELD ON THE 11th DAY OF APRIL, 2005 AT 7:15 P.M.
IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755
ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

ORD-FY-05-26
AMENDMENT TO SECTION PLU 1.1.1.
OF THE MONTGOMERY COUNTY
2025 COMPREHENSIVE PLAN
TO ESTABLISH A POLICY FOR THE
PERIODIC CONSIDERATION OF CHANGES
TO PLANNING POLICY AREA DESIGNATIONS

On a motion by Mary W. Biggs, seconded by Steve L. Spradlin and carried unanimously,

WHEREAS, The 2025 Comprehensive Plan Policy Map designates Planning Policy Areas. These Planning Policy Areas establish boundaries for distinct urban and rural areas and identify preferred development patterns in order to:

1. promote growth where it can be supported by infrastructure improvements,
2. maintain existing community character, and
3. preserve agriculture, forestry, and related uses where most appropriate based on natural resources and where existing development and land use patterns support the continuation of these uses, and

WHEREAS, PLU 1.1.1 of the 2025 Comprehensive Plan calls for the development of a policy for the periodic consideration by the county of landowner requests to change Planning Policy Area designations.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia does hereby amend PLU 1.1.1 of the 2025 Comprehensive Plan as follows:

PLU 1.1.1 Policy Area Designations: The amendment Develop—a policy for the periodic consideration by the county of ~~landowner~~ requests to change policy area designations in the Comprehensive Plan includes the following:

- a. Initiation of Amendment Requests - Amendment requests to change the designation of Planning Policy Areas may be initiated by the Landowner, Planning Commission, or Board of Supervisors.

Amendment requests from landowners, the Planning Commission and the Board of Supervisors are accepted and processed semi-annually between February 1st and March 1st and between August 1st and September 1st each year commencing August 1, 2005. In

addition, the Planning Commission and Board of Supervisors may initiate amendments that concern a particular village during the consideration of each of the six village plans.

b. Criteria for Amendments – A request to change the designation of a particular Planning Policy Area shall be approved only if one or more of the following criteria are met:

- The subject property was misinterpreted or overlooked in the comprehensive plan.
- Conditions have changed substantially since the last comprehensive plan update necessitating a change (e.g., changes in surrounding land use or economic conditions).
- An undue hardship exists which substantially limits the use of the subject property.
- The amendment will effectively aid in the implementation of other goals of the comprehensive plan.

Amendment requests are considered based on the preceding qualifications.

c. Consideration of Amendments - All amendment requests shall be forwarded to the Planning Commission. The Planning Commission shall give notice in accordance with Section 15.2-2204 of the Code of Virginia, and hold a public hearing on all amendment requests. After the public hearing, the Commission shall approve, amend and approve or disapprove the amendment to the plan. The Commission shall by resolution make its recommendation known to the Board of Supervisors.

The Board of Supervisors shall give notice in accordance with Section 15.2-2204 of the Code of Virginia, and hold a public hearing on the request. The Board of Supervisors shall take action to approve, amend and approve or deny the amendment request within ninety (90) days of the Planning Commission's recommending resolution.

Additions shown in underline

Deletions shown in ~~double-strikethrough~~

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>
James D. Politis	None
John A. Muffo	
Mary W. Biggs	
Steve L. Spradlin	
Annette S. Perkins	
Doug Marrs	
Gary D. Creed	

ATTEST: B. Clayton Goodman, III
B. Clayton Goodman, III
County Administrator



MONTGOMERY COUNTY DEPARTMENT
OF PLANNING & GIS SERVICES

PLANNING
GIS & MAPPING

755 ROANOKE STREET, SUITE 2A, CHRISTIANSBURG, VIRGINIA 24073-3177

MEMORANDUM

Date: September 4, 2013

To: Planning Commission

From: Steven Sandy, Planning Director

RE: Montgomery County Planning Commission request for an amendment to the 2025 Montgomery County Comprehensive Plan to change the policy map designation of approximately 8.33 acres designation of the former Prices Fork Elementary School property located at 4237 Prices Fork Road and identified as Tax Map No. 052-A 50 (Parcel ID 070688) from Civic in the Prices Fork Village plan to Mixed Use in the Prices Fork Magisterial District (District E).

I. Nature of Request

Montgomery County has requested an amendment to the 2025 Montgomery County Comprehensive Plan to change the policy map designation of approximately 8.33 acres designation of the former Prices Fork Elementary School property located at 4237 Prices Fork Road and identified as Tax Map No. 052-A 50 (Parcel ID 070688). The property is currently designated as Civic in the [Prices Fork Village Plan](#). The request is to change this designation to Mixed Use to allow other uses on the property. The Board of Supervisors is currently reviewing a proposal from a developer to purchase and redevelop the property. The property is located in the Prices Fork Magisterial District (District E).

II. Background

Subsequent to the adoption of the 2025 Comprehensive Plan in November, 2004, the County established a policy for the periodic consideration of changes to Planning Policy Area Designations (Ordinance ORD-FY-05-26). This policy allows comprehensive plan amendments to be initiated by the landowner, Planning Commission or Board of Supervisors. These requests are accepted and processed semi-annually in February and August each year.

In accordance with section PLU 1.1.1b Policy Area Designations, such a request to change the designation of a particular Planning Policy Area shall be approved only if one or more of the following criteria are met:

- The subject property was misinterpreted or overlooked in the comprehensive plan.
- Conditions have changed substantially since the last comprehensive plan update necessitating a change (e.g. changes in surrounding land use or economic conditions).
- An undue hardship exists which substantially limits the use of the subject property.
- The amendment will effectively aid in the implementation of other goals of the comprehensive plan.

All requests are forwarded to the Planning Commission for review and conducting a public hearing on each request. The Planning Commission shall approve, amend and approve or disapprove the amendment and make its recommendation to the Board of Supervisors. The Board shall also hold a public hearing and take action to approve, amend and approve or deny the amendment request within 90 days of the Planning Commission's recommendation.

III. Analysis

This property was originally identified as Village with the adoption of the 2025 Comprehensive Plan. The designation was further identified as Civic when the Prices Fork Village Plan was adopted in November 2005. The property was designated as Civic due to presence of elementary school at that time.

The future land use designation for properties to the north, east and west is Mixed Use. The future land use designation to the south is Medium Density Residential. Conditions have changed and the school has since been relocated to a nearby site along Prices Fork Road. The Board of Supervisors has put the property up for sale and is currently reviewing proposals for the redevelopment of the former school site. Changing the land use designation will allow the property to be used for another use that may not be under government or civic ownership or control.

IV. Recommendation

Planning staff preliminarily recommends the amendment to the land use designation of the former Prices Fork Elementary School property from Civic to Mixed Use. Staff believes conditions have changed substantially since the last comprehensive plan update in 2005 necessitating a change. Accordingly, staff believes this request complies with the criteria of PLU 1.1.1b.

At the time of this report, staff has not been contacted regarding this proposed amendment. Adjoining property owners and interested citizens may be present at the public hearing(s) to express their views regarding this request.

Attachments: Subject Property Future Land Use Map
ORD-FY-05-26 Comprehensive Plan Amendment Policy



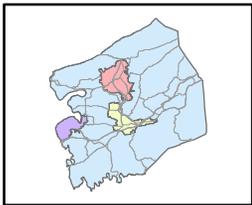
**Old Prices Fork
Elementary School
Comprehensive Plan Amendment**

Legend

- State Roads
- Interstate Highway
- Private Roads (Named)
- Planned Highway
- Hydrology
- Tax Parcels

Policy Map and Village Land Use

- Class**
- Civic
 - Low Density Residential
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 - Traditional Neighborhood Design (TDC)
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 - Open Space
 - Right of Way



Montgomery County, Virginia

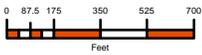
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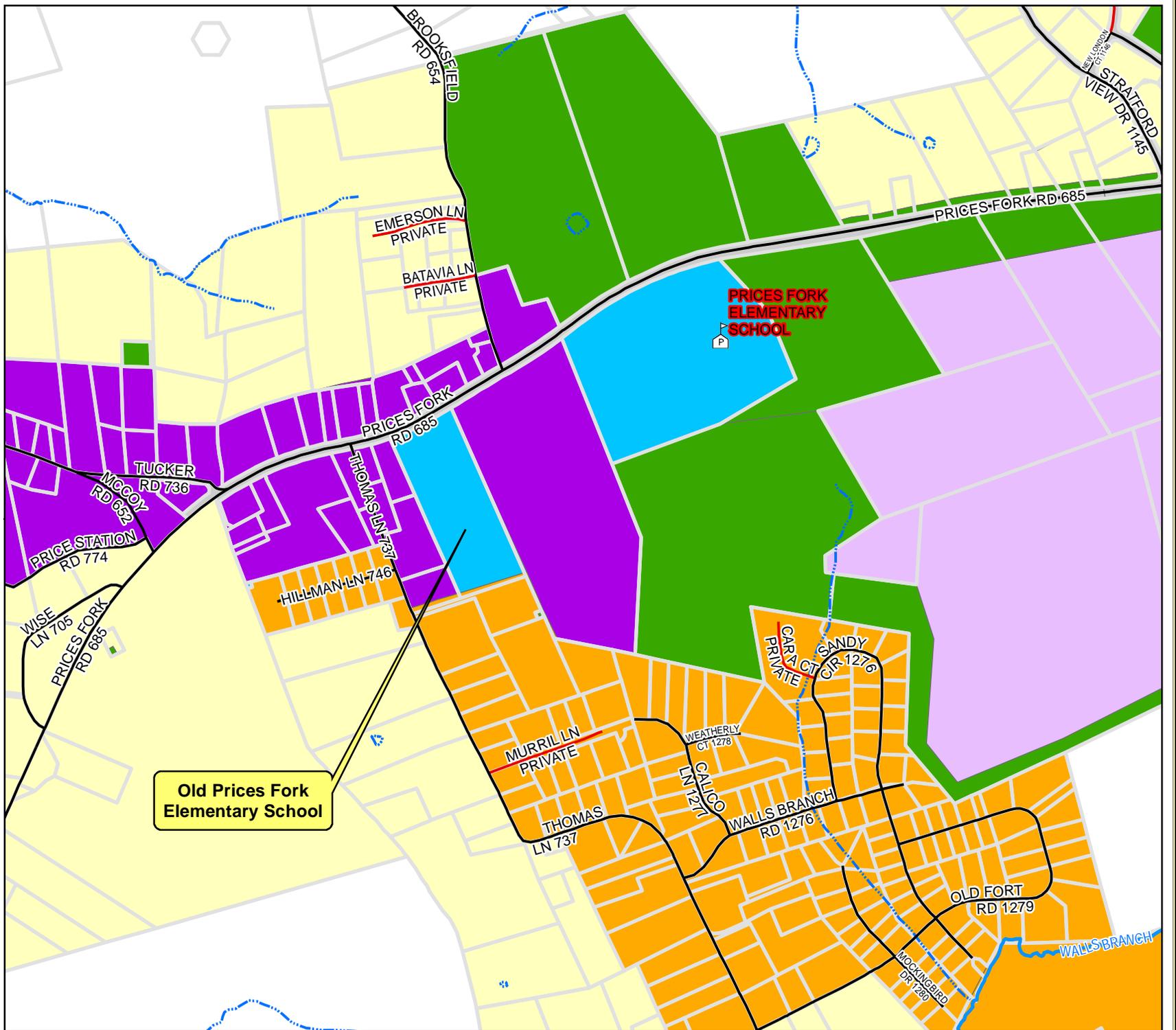
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Prepared by Montgomery County, Va
Planning & GIS Services, 8/6/2013



AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY
OF MONTGOMERY, VIRGINIA HELD ON THE 11th DAY OF APRIL, 2005 AT 7:15 P.M.
IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755
ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

ORD-FY-05-26
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OF THE MONTGOMERY COUNTY
2025 COMPREHENSIVE PLAN
TO ESTABLISH A POLICY FOR THE
PERIODIC CONSIDERATION OF CHANGES
TO PLANNING POLICY AREA DESIGNATIONS

On a motion by Mary W. Biggs, seconded by Steve L. Spradlin and carried unanimously,

WHEREAS, The 2025 Comprehensive Plan Policy Map designates Planning Policy Areas. These Planning Policy Areas establish boundaries for distinct urban and rural areas and identify preferred development patterns in order to:

1. promote growth where it can be supported by infrastructure improvements,
2. maintain existing community character, and
3. preserve agriculture, forestry, and related uses where most appropriate based on natural resources and where existing development and land use patterns support the continuation of these uses, and

WHEREAS, PLU 1.1.1 of the 2025 Comprehensive Plan calls for the development of a policy for the periodic consideration by the county of landowner requests to change Planning Policy Area designations.

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addition, the Planning Commission and Board of Supervisors may initiate amendments that concern a particular village during the consideration of each of the six village plans.

b. Criteria for Amendments – A request to change the designation of a particular Planning Policy Area shall be approved only if one or more of the following criteria are met:

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- Conditions have changed substantially since the last comprehensive plan update necessitating a change (e.g., changes in surrounding land use or economic conditions).
- An undue hardship exists which substantially limits the use of the subject property.
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The Board of Supervisors shall give notice in accordance with Section 15.2-2204 of the Code of Virginia, and hold a public hearing on the request. The Board of Supervisors shall take action to approve, amend and approve or deny the amendment request within ninety (90) days of the Planning Commission's recommending resolution.

Additions shown in underline

Deletions shown in ~~double-strikethrough~~

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>
James D. Politis	None
John A. Muffo	
Mary W. Biggs	
Steve L. Spradlin	
Annette S. Perkins	
Doug Marrs	
Gary D. Creed	

ATTEST: B. Clayton Goodman, III
B. Clayton Goodman, III
County Administrator



MONTGOMERY COUNTY DEPARTMENT OF
PLANNING & GIS SERVICES

PLANNING
GIS & MAPPING

755 ROANOKE STREET, SUITE 2A, CHRISTIANSBURG, VIRGINIA 24073-3177

MEMORANDUM

TO: Planning Commission

FROM: Dari S. Jenkins, CZA 
Planning & Zoning Administrator

DATE: September 3, 2013

SUBJ: **September 11, 2013 Planning Commission Agenda Item 4
Proposed Ordinance Amendments – Amateur Radio Tower**

Per the discussion and comments offered by the Commission on August 21, 2013, attached are proposed zoning ordinance amendments drafted in ordinance format for your review and action.

SUMMARY OF PROPOSED AMENDMENTS:

1. Add "Amateur Radio Tower (Subject to requirements of Section 10-41(20) of County Code)" to the list of uses permitted by right in the following zoning districts:

- Section 10-21; A-1 Agricultural District, (3) *Uses permitted by right.*
- Section 10-22; C-1 Conservation District, (3) *Uses permitted by right.*
- Section 10-23; R-R Rural Residential District, (3) *Uses permitted by right.*
- Section 10-24; R-1 Residential District, (3) *Uses permitted by right.*
- Section 10-25; R-2 Rural Residential District, (3) *Uses permitted by right.*
- Section 10-26; R-3 Rural Residential District, (3) *Uses permitted by right.*
- Section 10-28; GB General Business District, (3) *Uses permitted by right.*

- Section 10-29; CB Community Business District, (3) Uses permitted by right.
- Section 10-30; M-1 Manufacturing District, (3) Uses permitted by right.
- Section 10-31; ML Manufacturing-Light District, (3) Uses permitted by right.
- Section 10-33; PIN Planned Industrial District, (3) Uses permitted by right.
- Section 10-34; PUD-COM Planned Unit Development-Commercial District, (3) Uses permitted by right.
- Section 10-35; PUD-RES Planned Unit Development-Residential District, (3) Uses permitted by right.

2. Add "Amateur Radio Tower (Subject to requirements of Section 10-41(20) of County Code)" to the list of uses permitted by special use permit in the following zoning districts:

- Section 10-32; PUD-TND Planned Unit Development-Traditional Neighborhood District, (5) TND Subarea Standards and Uses, (c) Neighborhood Center Uses permitted by special use permit.
- Section 10-32.1; Traditional Neighborhood Development Infill District, (7) Uses permitted by special use permit.
- Section 10-36; PMR Planned Mobile Home Residential Park, (4) Uses permitted by special use permit.

3. Add "Amateur Radio Towers" to the list of uses regulated under Section 10-41(20), Supplemental District Regulations.

Sec. 10-41. Supplemental district regulations.

(20) Amateur Radio Towers. Amateur radio towers, as defined in Section 10-61 of this chapter, are permitted in the Agricultural (A-1), Conservation (C-1), Rural Residential (R-R), Residential (R-1), Residential (R-2), Residential (R-3), General Business (GB), Community Business (CB), Manufacturing (M-1), Manufacturing-Light (M-L), Planned Industrial (PIN), Planned Unit Development – Commercial (PUD-COM) and Planned Unit Development-Residential (PUD-RES) Districts, and permitted by special use in the Multiple-Family Residential (RM-1), Planned Unit Development-Traditional Neighborhood Development (PUD-TND), traditional Neighborhood Development Infill and Planned Mobile Home Residential Park (PMR) Districts subject to the following requirements:

September 11, 2013 Planning Commission Agenda Item 4
Proposed Ordinance Amendments – Amateur Radio Tower

- (a) Maximum height: Seventy-five (75) feet. An amateur radio tower greater than seventy-five (75) feet shall require a special use permit in all zoning districts.
- (b) The set-back requirement for the tower shall be a distance equal to the height of the tower.
 - 1. Tower guys and accessory structures shall meet the minimum accessory building setback requirements of the district.
- (c) Towers shall be located in the side and rear yards only.
- (d) Towers shall be of a non-reflective, dark finish.

4. Add "Amateur Radio Tower" to the list of definitions under Section 10-61, Definitions.

Amateur Radio Tower: A structure on which an antenna is installed for the purpose of transmitting and receiving amateur radio signals erected, operated, and maintained by an amateur radio operator licensed by the FCC.

Please don't hesitate to contact me if you have questions regarding the proposed changes.

DJ

Attachments: Draft Amateur Radio Tower Amendments (in ordinance format)

AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING
OF THE CODE OF THE COUNTY OF MONTGOMERY VIRGINIA
BY AMENDING SECTIONS 10-21 THROUGH 10-36, SECTION 10-41 AND
SECTION 10-61 BY CREATING A NEW AMATEUR RADIO TOWER
USE DEFINED AS A STRUCTURE ON WHICH ANTENNA IS INSTALLED FOR
THE PURPOSE OF TRANSMITTING AND RECEIVING AMATEUR RADIO SIGNALS ALLOWABLE
BY RIGHT UNDER CERTAIN USE LIMITATIONS IN
A-1 AGRICULTURAL, C-1 CONSERVATION, R-R RURAL RESIDENTIAL,
R-1, R-2, R-3 RESIDENTIAL, GB GENERAL BUSINESS, CB COMMUNITY BUSINESS,
M-1 MANUFACTURING, M-L MANUFACTURING LIGHT, PIN PLANNED INDUSTRIAL,
PUD-COM AND PUD-RES PLANNED UNIT DEVELOPMENT DISTRICTS AND
ALLOWABLE BY SPECIAL USE PERMIT UNDER CERTAIN USE LIMITATIONS IN
RM-1 MULTIPLE FAMILY RESIDENTIAL, PUD-TND PLANNED UNIT DEVELOPMENT-
TRADITIONAL NEIGHBORHOOD DEVELOPMENT, TRADITIONAL NEIGHBORHOOD
DEVELOPMENT INFILL AND PMR PLANNED MOBILE HOME RESIDENTIAL PARK DISTRICTS

BE IT ORDAINED, by the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, Entitled Zoning, Sections 10-21 through 10-36, Section 10-41 and Section 10-61 of the Code of the County of Montgomery, Virginia shall be amended and reordained as follows:

Sec. 10-21. A-1 Agricultural District.

(3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development and performance standards contained in this chapter, and all other applicable regulations:

- (a) Agriculture.
- (b) Agriculture, intensive.
- (c) Agriculture, small scale.
- (d) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
- ~~(d)~~(e) Bed and breakfast homestay.
- ~~(e)~~(f) Cemetery.
- ~~(f)~~(g) Church.
- ~~(g)~~(h) Dwelling, single-family.
- ~~(h)~~(i) Farm enterprise.
- ~~(i)~~(j) Fire, police and rescue stations.
- ~~(j)~~(k) Home occupation.
- ~~(k)~~(l) Manufactured (mobile) home, Class A or B.
- ~~(l)~~(m) Natural area.
- ~~(m)~~(n) Park, unlighted.
- ~~(n)~~(o) Pet, farm.
- ~~(o)~~(p) Pet, household.
- ~~(p)~~(q) Playground, unlighted.

- ~~(e)~~(r) Public utility lines, other; and public utility lines, water and sewer.
- ~~(f)~~(s) Sawmill, temporary.
- ~~(s)~~(t) School.
- ~~(t)~~(u) Telecommunications tower, attached.
- ~~(u)~~(v) Veterinary practice, animal hospital.

Sec. 10-22. C-1 Conservation District.

- (3) *Use permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter, and all other applicable regulations:
- (a) Agriculture.
 - (b) Agriculture, small scale.
 - (c) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
 - ~~(e)~~(d) Bed and breakfast homestay.
 - ~~(d)~~(e) Cemetery.
 - ~~(e)~~(f) Dwelling, single-family.
 - ~~(f)~~(g) Game preserve.
 - ~~(g)~~(h) Home occupation, as defined in this chapter.
 - ~~(h)~~(i) Manufactured home, Class A and Class B.
 - ~~(i)~~(j) Natural area.
 - ~~(j)~~(k) Pet, farm.
 - ~~(k)~~(l) Pet, household.
 - ~~(l)~~(m) Public utility lines, other; public utility lines, water and sewer.
 - ~~(m)~~(n) Telecommunications tower, attached.
 - ~~(n)~~(o) Veterinary practice, animal hospital.
 - ~~(o)~~(p) Farm enterprise.
 - ~~(p)~~(q) Sawmill, temporary.

Sec. 10-23. R-R Rural Residential District.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter, and with all other applicable regulations:
- (a) Agriculture, small-scale.
 - (b) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
 - ~~(b)~~(c) Bed and breakfast homestay.
 - ~~(e)~~(d) Church.

- ~~(d)~~(e) Dwelling, single-family.
- ~~(e)~~(f) Home occupation.
- ~~(f)~~(g) Park, unlighted.
- ~~(g)~~(h) Pet, farm.
- ~~(h)~~(i) Pet, household.
- ~~(i)~~(j) Playground, unlighted.
- ~~(j)~~(k) Public utility lines, other; public utility lines, water and sewer.
- ~~(k)~~(l) School.
- ~~(l)~~(m) Telecommunications tower, attached.

Sec. 10-24. R-1 Residential District.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter, and with all other applicable regulations:
 - (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
 - ~~(a)~~(b) Bed and breakfast homestay.
 - ~~(b)~~(c) Church.
 - ~~(e)~~(d) Dwelling, single-family.
 - ~~(d)~~(e) Home occupation.
 - ~~(e)~~(f) Library.
 - ~~(f)~~(g) Pet, household.
 - ~~(g)~~(h) Public utility lines, other.
 - ~~(h)~~(i) Public utility lines, water or sewer.
 - ~~(i)~~(j) School.
 - ~~(j)~~(k) Telecommunications tower, attached.

Sec. 10-25. R-2 Residential District.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter, and with all other applicable regulations:
 - (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
 - ~~(a)~~(b) Bed and breakfast homestay.
 - ~~(b)~~(c) Church.
 - ~~(e)~~(d) Dwelling, single-family.
 - ~~(d)~~(e) Dwelling, two-family.
 - ~~(e)~~(f) Home occupation.

- (f)(g) Library.
- (g)(h) Pet, household.
- (h)(i) Public utility lines, other.
- (i)(j) Public utility lines, water or sewer.
- (j)(k) School.
- (k)(l) Telecommunications tower, attached.

Sec. 10-26. R-3 Residential District.

- (3) *Uses permitted by right.* The following uses are permitted by right in the R-3 district, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter, and with all other applicable regulations:
- (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
 - (a)(b) Church.
 - (b)(c) Dwelling, single-family.
 - (c)(d) Dwelling, two-family.
 - (d)(e) Home occupation.
 - (e)(f) Library.
 - (f)(g) Pet, household.
 - (g)(h) Public utility lines, other.
 - (h)(i) Public utility lines, water or sewer.
 - (i)(j) School.
 - (j)(k) Telecommunications tower, attached.

Sec. 10-27. RM-1 Multiple-Family Residential District.

- (4)(i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all other applicable regulations:
- (a) Amateur Radio Tower (subject to requirements of section 10-41(20) of County Code).
 - (a)(b) Boarding house.
 - (b)(c) Cemetery.
 - (c)(d) Civic club.
 - (d)(e) Country club.
 - (e)(f) Country inn.
 - (f)(g) Congregate care facility.
 - (g)(h) Day care center.
 - (h)(i) Dormitory.

- ~~(j)~~(i) Fire, police and rescue stations.
- ~~(j)~~(k) Funeral home.
- ~~(k)~~(l) Golf course.
- ~~(l)~~(m) Medical care facility.
- ~~(m)~~(n) Nursing home.
- ~~(n)~~(o) Park, lighted or unlighted.

Sec. 10-28. GB General Business.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:
 - (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
 - ~~(a)~~(b) Apartment as accessory use, maximum of two (2) per business structure.
 - ~~(b)~~(c) Assembly of electrical, electronic devices, less than three thousand (3,000) square feet floor area.
 - ~~(e)~~(d) Automotive, light truck, sales, service, rental and repair, excluding motor fuel sales.
 - ~~(d)~~(e) Building material sales.
 - ~~(e)~~(f) Business or trade school.
 - ~~(f)~~(g) Cabinet shop, furniture, upholstery, craft industry of less than three thousand (3,000) square feet.
 - ~~(g)~~(h) Cemetery.
 - ~~(h)~~(i) Church.
 - ~~(i)~~(j) Civic club.
 - ~~(j)~~(k) Community center.
 - ~~(k)~~(l) Conference or training center.
 - ~~(l)~~(m) Crematorium.
 - ~~(m)~~(n) Custom meat cutting, processing and sales (excluding slaughtering).
 - ~~(n)~~(o) Day care center.
 - ~~(o)~~(p) Equipment sales and service.
 - ~~(p)~~(q) Financial services.
 - ~~(q)~~(r) Fire, police, rescue facility.
 - ~~(r)~~(s) Funeral home.
 - ~~(s)~~(t) General store, convenience store without motor fuel sales.
 - ~~(t)~~(u) Homeless shelter.
 - ~~(u)~~(v) Hotel, motel.
 - ~~(v)~~(w) Laundromat.
 - ~~(w)~~(x) Library.
 - ~~(x)~~(y) Medical care facility.
 - ~~(y)~~(z) Motor vehicle rentals.

- ~~(z)~~(aa) Office, administrative, business or professional.
- ~~(aa)~~(bb) Park.
- ~~(bb)~~(cc) Park and ride lot.
- ~~(cc)~~(dd) Pet, household.
- ~~(dd)~~(ee) Post office.
- ~~(ee)~~(ff) Printing service.
- ~~(ff)~~(gg) Public utility lines, other distribution or collection facility.
- ~~(gg)~~(hh) Public utility lines, water or sewer.
- ~~(hh)~~(ii) Radio station; excluding tower.
- ~~(ii)~~(jj) Restaurant.
- ~~(jj)~~(kk) Retail sales and services.
- ~~(kk)~~(ll) School.
- ~~(ll)~~(mm) Shopping center.
- ~~(mm)~~(nn) Telecommunication tower, attached.
- ~~(nn)~~(oo) Veterinary practice, animal hospital.
- ~~(oo)~~(pp) Garden center.
- ~~(pp)~~(qq) School of special instruction.

Sec. 10-29. CB Community Business.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:
 - (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
 - ~~(a)~~(b) Apartment as accessory use, maximum of two (2) per business structure.
 - ~~(b)~~(c) Assembly of electrical, electronic devices, less than one thousand two hundred (1,200) square feet floor area.
 - ~~(c)~~(d) Automotive, light truck, sales, service, rental and repair, without motor fuel sales, less than two thousand (2,000) square feet.
 - ~~(d)~~(e) Business or trade school.
 - ~~(e)~~(f) Cabinet shop, furniture, upholstery, craft industry of less than one thousand two hundred (1,200) square feet.
 - ~~(f)~~(g) Cemetery.
 - ~~(g)~~(h) Church.
 - ~~(h)~~(i) Civic club.
 - ~~(i)~~(j) Community center.
 - ~~(j)~~(k) Conference or training center.
 - ~~(k)~~(l) Crematorium.
 - ~~(l)~~(m) Custom meat cutting, processing and sales (excluding slaughtering).

- ~~(m)~~(n) Day care facility.
- ~~(n)~~(o) Financial services.
- ~~(o)~~(p) Fire, police, rescue facility.
- ~~(p)~~(q) Funeral home.
- ~~(q)~~(r) General, convenience store less than three thousand (3,000) square feet, without motor fuel sales.
- ~~(r)~~(s) Homeless shelter.
- ~~(s)~~(t) Library.
- ~~(t)~~(u) Medical care facility.
- ~~(u)~~(v) Garden center.
- ~~(v)~~(w) Office, administrative, business or professional less than three thousand (3,000) square feet.
- ~~(w)~~(x) Park, unlighted.
- ~~(x)~~(y) Park and ride lot, unlighted.
- ~~(y)~~(z) Pet, household.
- ~~(z)~~(aa) Post office.
- ~~(aa)~~(bb) Printing service.
- ~~(bb)~~(cc) Public utility lines, other.
- ~~(cc)~~(dd) Public utility lines, water or sewer.
- ~~(dd)~~(ee) Restaurant.
- ~~(ee)~~(ff) Retail sales and services less than three thousand (3,000) square feet.
- ~~(ff)~~(gg) Roadside stand.
- ~~(gg)~~(hh) School.
- ~~(hh)~~(ii) School of special instruction.
- ~~(ii)~~(jj) Telecommunication tower, attached.

Sec. 10-30. M-1 Manufacturing.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:
 - (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
 - ~~(a)~~(b) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts.
 - ~~(b)~~(c) Automobile or mobile home assembling, painting, public garages, upholstering repairing, rebuilding, reconditioning, truck repairing or overhauling and tire retreading or recapping.
 - ~~(c)~~(d) Cabinets, furniture and upholstery shop.
 - ~~(d)~~(e) Civic club.
 - ~~(e)~~(f) Contractor service establishment.
 - ~~(f)~~(g) Crematorium.

- ~~(g)~~(h) Custom meat cutting, processing and sales.
- ~~(h)~~(i) Day care center.
- ~~(i)~~(j) Equipment sales and service.
- ~~(j)~~(k) Feed and seed store and mill.
- ~~(k)~~(l) Fire, police, rescue facility.
- ~~(l)~~(m) Fruit processing and storage.
- ~~(m)~~(n) Laboratory.
- ~~(n)~~(o) Laundry, dry cleaning plant.
- ~~(o)~~(p) Manufacture of musical instruments, toys, novelties, rubber and metal stamps.
- ~~(p)~~(q) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
- ~~(q)~~(r) Manufacturing, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, rubber, precious or semiprecious metals or stones, shell, straw, textiles, tobacco, wood, yarn and paint.
- ~~(r)~~(s) Manufacturing, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, food and tobacco products.
- ~~(s)~~(t) Monument stone works.
- ~~(t)~~(u) Park and ride lot.
- ~~(u)~~(v) Pet, household.
- ~~(v)~~(w) Public utility lines, other.
- ~~(w)~~(x) Public utility line, water or sewer.
- ~~(x)~~(y) Railroad facility.
- ~~(y)~~(z) Recycling facility.
- ~~(z)~~(aa) Retail sales and service incidental to any other permitted use.
- ~~(aa)~~(bb) Telecommunication tower, attached.
- ~~(bb)~~(cc) Truck terminal.
- ~~(cc)~~(dd) Welding or machine shop.
- ~~(dd)~~(ee) Wholesale business, storage warehouse.
- ~~(ee)~~(ff) Wood preserving operation.

Sec. 10-31. M-L Manufacturing-Light.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:
 - (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
 - ~~(a)~~(b) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts.

- ~~(b)~~(c) Business or trade school.
- ~~(e)~~(d) Cabinets, furniture and upholstery shop.
- ~~(d)~~(e) Civic club.
- ~~(e)~~(f) Conference or training center.
- ~~(f)~~(g) Crematorium.
- ~~(g)~~(h) Day care center.
- ~~(h)~~(i) Equipment sales and service.
- ~~(i)~~(j) Financial services.
- ~~(j)~~(k) Fire, police, rescue facility.
- ~~(k)~~(l) Flex-industrial use.
- ~~(l)~~(m) Homeless shelter.
- ~~(m)~~(n) Hotel, motel.
- ~~(n)~~(o) Laboratory.
- ~~(o)~~(p) Laundry, dry cleaning plant.
- ~~(p)~~(q) Manufacture of musical instruments, toys, novelties, rubber and metal stamps.
- ~~(q)~~(r) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
- ~~(r)~~(s) Manufacturing, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, food and tobacco products.
- ~~(s)~~(t) Monument stone works.
- ~~(t)~~(u) Offices, administrative, business or professional.
- ~~(u)~~(v) Park and ride lot.
- ~~(v)~~(w) Pet, household.
- ~~(w)~~(x) Post office.
- ~~(x)~~(y) Printing service.
- ~~(y)~~(z) Public utility lines, other.
- ~~(z)~~(aa) Public utility lines, water or sewer.
- ~~(aa)~~(bb) Research, experimental, testing or development activity.
- ~~(bb)~~(cc) Retail sales and service incidental to any other permitted use.
- ~~(cc)~~(dd) Telecommunication tower, attached.
- ~~(dd)~~(ee) Veterinary service; animal hospital.
- ~~(ee)~~(ff) Wholesale business, storage warehouses.

Sec. 10-32. PUD-TND Planned Unit Development-Traditional Neighborhood Development District.

(5) *TND Subarea Standards and Uses.*

- (i) *Neighborhood Center:* Each PUD-TND neighborhood shall have a core made up primarily of commercial, residential, civic or institutional, and open space uses.

- (c) *Neighborhood Center Uses permitted by special use permit.* Any of the following uses may be allowed in conjunction with a permitted commercial use subject to approval of a special use permit filed as part of the initial development plan at the

time of rezoning; however, the board of supervisors may impose conditions on such uses even if approved as part of the initial development plan.

1. Drive-through windows serving or associated with permitted uses provided such facilities are located at the rear of the principal structure and do not conflict with pedestrian travel ways. In no case shall the drive through lane or window abut or face a public street.
2. Outdoor storage, display and/or sales serving or associated with a by-right permitted use, if any portion of the use would be visible from a travelway.
3. Individual buildings over twenty thousand (20,000) total square feet in size, or greater than ten thousand (10,000) square feet floorplate.
4. Fuel sales with pumps located at the rear of the associated retail structure and which do not conflict with pedestrian travel ways or interrupt street frontage. In no case shall the gas pump canopy abut a public street.
5. Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).

Sec. 10-32.1. Traditional Neighborhood Development Infill District.

(7) *Uses permitted by special use permit.* Any of the following uses permitted by special exception may be approved as part of the initial development plan at the time of rezoning; however, the board of supervisors may impose conditions on such uses even if approved as part of the initial development plan.

- a. Retail Sales and Services, above ten thousand (10,000) square feet and no larger than twenty thousand (20,000) square feet in size;
- b. Multifamily dwellings, including senior housing;
- c. Nursing home, congregate care facility, and assisted living facilities.
- d. Farm Market;
- e. Hotels and motels;
- f. Conference or training center;
- g. Home business;
- h. School;
- i. Drive-through windows serving or associated with permitted uses provided such facilities are located at the rear or side of the structure and do not conflict with pedestrian travel ways. In no case shall the drive through lane or window abut or face a public street.
- j. Transition house.
- k. Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).

Sec. 10-33. PIN Planned Industrial.

(3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter:

- (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).

- ~~(a)~~(b) Animal hospital.
- ~~(b)~~(c) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts.
- ~~(c)~~(d) Business or trade school.
- ~~(d)~~(e) Cabinets, furniture and upholstery shop.
- ~~(e)~~(f) Cemetery, mausoleum or memorial park.
- ~~(f)~~(g) Civic club.
- ~~(g)~~(h) Conference or training center.
- ~~(h)~~(i) Crematorium.
- ~~(i)~~(j) Day care center.
- ~~(j)~~(k) Equipment sales and service.
- ~~(k)~~(l) Financial services.
- ~~(l)~~(m) Fire, police, rescue facility.
- ~~(m)~~(n) Flex-industrial uses.
- ~~(n)~~(o) Homeless shelter.
- ~~(o)~~(p) Hotel, motel.
- ~~(p)~~(q) Laboratory.
- ~~(q)~~(r) Laundry, dry cleaning plant.
- ~~(r)~~(s) Manufacture of musical instruments, toys, novelties, rubber and metal stamps.
- ~~(s)~~(t) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
- ~~(t)~~(u) Manufacturing, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, food and tobacco products.
- ~~(u)~~(v) Mini warehouse.
- ~~(v)~~(w) Monument stone works.
- ~~(w)~~(x) Office, administrative, business or professional.
- ~~(x)~~(y) Park and ride lot.
- ~~(y)~~(z) Pet, household.
- ~~(z)~~(aa) Post office.
- ~~(aa)~~(bb) Printing service.
- ~~(bb)~~(cc) Public utility lines, other.
- ~~(cc)~~(dd) Public utility lines, water or sewer.
- ~~(dd)~~(ee) Public utility substation.
- ~~(ee)~~(ff) Research, experimental, testing or development activity.
- ~~(ff)~~(gg) Retail sales and service incidental to any other permitted use.
- ~~(gg)~~(hh) Storage warehouse.
- ~~(hh)~~(ii) Telecommunication tower, attached.
- ~~(ii)~~(jj) Veterinary service.
- ~~(jj)~~(kk) Wholesale business.

Sec. 10-34. PUD-COM Planned Unit Development-Commercial District.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:
- (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
 - ~~(a)~~(b) Apartment as accessory use.
 - ~~(b)~~(c) Assembly of electrical, electronic devices, less than three thousand (3,000) square feet floor area.
 - ~~(c)~~(d) Automotive, light truck, sales, service, rental and repair.
 - ~~(d)~~(e) Building material sales.
 - ~~(e)~~(f) Business or trade school.
 - ~~(f)~~(g) Cabinet shop, furniture, upholstery, craft industry of less than three thousand (3,000) square feet.
 - ~~(g)~~(h) Cemetery.
 - ~~(h)~~(i) Church.
 - ~~(i)~~(j) Civic club.
 - ~~(j)~~(k) Conference or training center.
 - ~~(k)~~(l) Convenience store, without motor fuel sales.
 - ~~(l)~~(m) Crematorium.
 - ~~(m)~~(n) Custom meat cutting, processing and sales (excluding slaughtering).
 - ~~(n)~~(o) Day care center.
 - ~~(o)~~(p) Equipment sales and service.
 - ~~(p)~~(q) Financial services.
 - ~~(q)~~(r) Fire, police, rescue facility.
 - ~~(r)~~(s) Funeral home.
 - ~~(s)~~(t) General store, convenience store without motor fuel sales.
 - ~~(t)~~(u) Homeless shelter.
 - ~~(u)~~(v) Hospital, medical center, emergency care.
 - ~~(v)~~(w) Hotel, motel.
 - ~~(w)~~(x) Library.
 - ~~(x)~~(y) Medical care facility.
 - ~~(y)~~(z) Motor vehicle rentals.
 - ~~(z)~~(aa) Movie theater.
 - ~~(aa)~~(bb) Office, administrative, business or professional.
 - ~~(bb)~~(cc) Park.
 - ~~(cc)~~(dd) Park and ride lot.
 - ~~(dd)~~(ee) Pet, household.
 - ~~(ee)~~(ff) Post office.
 - ~~(ff)~~(gg) Printing service.

- ~~(gg)~~(hh) Public utility lines, other.
- ~~(hh)~~(ii) Public utility lines, water or sewer.
- ~~(ii)~~(jj) Radio station, excluding tower.
- ~~(jj)~~(kk) Recreation club.
- ~~(kk)~~(ll) Recreation establishment.
- ~~(ll)~~(mm) Recycling collection point.
- ~~(mm)~~(nn) Restaurant.
- ~~(nn)~~(oo) Retail sales and services.
- ~~(oo)~~(pp) School.
- ~~(pp)~~(qq) Shopping center.
- ~~(qq)~~(rr) Senior living facilities.
- ~~(rr)~~(ss) Telecommunication tower, attached.
- ~~(ss)~~(tt) Veterinary practice, animal hospital.

Sec. 10-35. PUD-RES Planned Unit Development-Residential district.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter:
 - (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
 - ~~(a)~~(b) Cemetery.
 - ~~(b)~~(c) Church.
 - ~~(c)~~(d) Civic club.
 - ~~(d)~~(e) Conference or training center.
 - ~~(e)~~(f) Congregate care facility.
 - ~~(f)~~(g) Convenience store, without motor fuel sales.
 - ~~(g)~~(h) Day care center.
 - ~~(h)~~(i) Dwelling, multifamily (apartment).
 - ~~(i)~~(j) Dwelling, single-family.
 - ~~(j)~~(k) Dwelling, single-family attached (townhouse).
 - ~~(k)~~(l) Dwelling, two-family (duplex).
 - ~~(l)~~(m) Financial services.
 - ~~(m)~~(n) Fire, police and rescue station.
 - ~~(n)~~(o) Funeral home.
 - ~~(o)~~(p) Golf course.
 - ~~(p)~~(q) Home occupation (new).
 - ~~(q)~~(r) Library.
 - ~~(r)~~(s) Medical care facility.
 - ~~(s)~~(t) Mobile home, Class A.
 - ~~(t)~~(u) Nursing home.
 - ~~(u)~~(v) Office, administrative, business or professional.

- ~~(w)~~(w) Park, lighted or unlighted.
- ~~(w)~~(x) pet, household.
- ~~(x)~~(y) Playground, lighted or unlighted.
- ~~(y)~~(z) Post office.
- ~~(z)~~(aa) Public facility.
- ~~(aa)~~(bb) Public utility lines, other.
- ~~(bb)~~(cc) Public utility lines, water or sewer.
- ~~(ee)~~(dd) Recreation establishment.
- ~~(de)~~(ee) Recycling collection point.
- ~~(ee)~~(ff) Restaurant with gross floor area of less than two thousand (2,000) square feet.
- ~~(ff)~~(gg) Retail sales and services.
- ~~(gg)~~(hh) School.
- ~~(hh)~~(ii) Senior living facility.
- ~~(ii)~~(jj) Telecommunication tower, attached.

Sec. 10-36. PMR Planned Mobile Home Residential Park.

- (4) *Uses permissible by special use permit.*
 - (a) New Planned Mobile Home Residential Park-PMR.
 - (b) Existing Planned Mobile Home Residential Park-PMR.
 - (c) Retail convenience sales subject to subsection (7).
 - (d) Service facilities such as laundries, storage areas, recreation facilities.
 - (e) Expansion of existing PMR may be permitted when both existing and expansion portions comply with subsection (2).
 - (f) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).

Sec. 10-41. Supplemental district regulations.

- (20) Amateur Radio Towers. Amateur radio towers, as defined in Section 10-61 of this chapter, are permitted in the Agricultural (A-1), Conservation (C-1), Rural Residential (R-R), Residential (R-1), Residential (R-2), Residential (R-3), General Business (GB), Community Business (CB), Manufacturing (M-1), Manufacturing-Light (M-L), Planned Industrial (PIN), Planned Unit Development – Commercial (PUD-COM) and Planned Unit Development-Residential (PUD-RES) Districts, and permitted by special use in the Multiple-Family Residential (RM-1), Planned Unit Development-Traditional Neighborhood Development (PUD-TND), traditional Neighborhood Development Infill and Planned Mobile Home Residential Park (PMR) Districts subject to the following requirements:
 - (a) Maximum height: Seventy-five (75) feet. An amateur radio tower greater than seventy-five (75) feet shall require a special use permit in all zoning districts.
 - (b) The set-back requirement for the tower shall be a distance equal to the height of the tower.

1. Tower guys and accessory structures shall meet the minimum accessory building setback requirements of the district.
- (c) Towers shall be located in the side and rear yards only.
- (d) Towers shall be of a non-reflective, dark finish.

Sec. 10-61. Definitions.

Amateur Radio Tower: A structure on which an antenna is installed for the purpose of transmitting and receiving amateur radio signals erected, operated, and maintained by an amateur radio operator licensed by the FCC.



MONTGOMERY COUNTY DEPARTMENT OF
PLANNING & GIS SERVICES

PLANNING
GIS & MAPPING

755 ROANOKE STREET, SUITE 2A, CHRISTIANSBURG, VIRGINIA 24073-3177

MEMORANDUM

TO: Planning Commission

FROM: Dari S. Jenkins, CZA 
Planning & Zoning Administrator

DATE: September 3, 2013

SUBJ: **September 11, 2013 Planning Commission Agenda Item 5**
Proposed Ordinance Amendments – Park and Ride Lot

Per the discussion and comments offered by the Commission on August 21, 2013, attached are proposed zoning ordinance amendments drafted in ordinance format for your review and action.

SUMMARY OF PROPOSED AMENDMENTS:

1. Add "Park and Ride Lot" to the list of uses permitted in the following zoning districts:

By special use permit

- **Section 10-21; A-1 Agricultural District, (4)(i) Uses permitted by special use permit.**
- **Section 10-22; C-1 Conservation District, (4)(i) Uses permitted by special use permit.**
- **Section 10-23; R-R Rural Residential District, (4)(i) Uses permitted by special use permit.**
- **Section 10-24; R-1 Residential District, (4)(i) Uses permitted by special use permit.**
- **Section 10-25; R-2 Rural Residential District, (4)(i) Uses permitted by special use permit.**
- **Section 10-26; R-3 Rural Residential District, (4)(i) Uses permitted by special use permit.**
- **Section 10-27; RM-1 Multiple-Family Residential District, (4)(i) Uses permitted by special use permit.**
- **Section 10-36; PMR Planned Mobile Home Residential Park District, (4) Uses permitted by special use permit.**

By special use permit if more than fifty (50) spaces

- **Section 10-28; GB General Business District, (4)(i)** *Uses permitted by special use permit.*
- **Section 10-29; CB Community Business District, (4)** *Uses permitted by special use permit.*
- **Section 10-30; M-1 Manufacturing District, (4)** *Uses permitted by special use permit.*
- **Section 10-31; ML Manufacturing-Light District, (4)** *Uses permitted by special use permit.*
- **Section 10-32.1; Traditional Neighborhood Development Infill District, (7)** *Uses permitted by special use permit.*
- **Section 10-33; PIN Planned Industrial District, (4)** *Uses permitted by special use permit.*
- **Section 10-34; PUD-COM Planned Unit Development-Commercial District, (4)** *Uses permitted by special use permit.*
- **Section 10-35; PUD-RES Planned Unit Development-Residential District, (4)** *Uses permitted by special use permit.*

By Right if 50 or fewer spaces:

- **Section 10-28; GB General Business District, (3)** *Uses permitted by right*
- **Section 10-29; CB Community Business District, (3)** *Uses permitted by right*
- **Section 10-30; M-1 Manufacturing District, (3)** *Uses permitted by right*
- **Section 10-31; ML Manufacturing-Light District, (3)** *Uses permitted by right*
- **Section 10-32; PUD-TND Planned Unit – Traditional Neighborhood Development District, (5)(i)(b)1, Commercial Uses**
- **Section 10-32.1; Traditional Neighborhood Development Infill District, (6) (1)** *Commercial Uses.*
- **Section 10-33; PIN Planned Industrial District, (3)** *Uses permitted by right.*
- **Section 10-34; PUD-COM Planned Unit Development-Commercial District, (3)** *Uses permitted by right.*
- **Section 10-35; PUD-RES Planned Unit Development-Residential District, (3)** *Uses permitted by right*

September 11, 2013 Planning Commission Agenda Item 5
Proposed Ordinance Amendments – Park and Ride Lot

2. Add “Park and Ride Lot” to Section 10-41(20), Supplemental District Regulations:

Sec. 10-41. Supplemental district regulations.

(21) *Park and Ride Lot.*

- (a) Park and ride lots shall be exempt from all maximum lot coverage requirements contained in this ordinance.
- (b) Park and ride lots shall meet the minimum yard requirements of the zoning district in which they are located.
- (c) Park and ride lots shall comply with the off-street parking and loading requirements listed in Sections 10-44 (2) (c) through 10-44 (2) (f).
- (d) Park and ride lots shall comply with the parking lot landscaping and screening requirements listed in Section 10-43 (9).

3. Amend “Park and Ride Lot” definition under Section 10-61, Definitions.

Park and ride lot: A public or private parking lot located, and designed for, and intended to be used solely by commuters to park their automobiles, light trucks, ~~or light vans,~~ motorcycles or bicycles while they travel to and from their place of work or school, or while sightseeing, shopping, running errands, or otherwise travelling in the short-term using buses, car pools or other means. Such lot ~~may~~ shall be lighted for security purposes.

Please don't hesitate to contact me if you have questions regarding the proposed changes.

DJ

Attachments: Draft Park and Ride Lot Amendments (in ordinance format)

AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING OF THE CODE OF THE COUNTY OF MONTGOMERY VIRGINIA BY AMENDING SECTIONS 10-21 THROUGH 10-36, SECTION 10-41 AND SECTION 10-61 BY AMENDING THE DEFINITION OF PARK AND RIDE LOT TO INCLUDE PARKING FOR OTHER SHORT TERM TRAVELING PURPOSES IN ADDITION TO WORK ALLOWABLE BY RIGHT UNDER CERTAIN USE LIMITATIONS IF THE LOT HAS FIFTY OR LESS PARKING SPACES IN GB GENERAL BUSINESS, CB COMMUNITY BUSINESS, M-1 MANUFACTURING, M-L MANUFACTURING-LIGHT, PUD-TND PLANNED UNIT DEVELOPMENT-TRADITIONAL NEIGHBORHOOD DEVELOPMENT, TRADITIONAL NEIGHBORHOOD DEVELOPMENT INFILL, PIN PLANNED INDUSTRIAL, PUD-COM PLANNED UNIT DEVELOPMENT-COMMERCIAL, PUD-RES PLANNED UNIT DEVELOPMENT- RESIDENTIAL AND UNIT DEVELOPMENT- RESIDENTIAL DISTRICTS AND PARK AND RIDE LOT ALLOWABLE BY SPECIAL USE PERMIT WITH MORE THAN FIFTY PARKING SPACES IN GB GENERAL BUSINESS, CB COMMUNITY BUSINESS, M-1 MANUFACTURING, M-L MANUFACTURING-LIGHT, PUD-TND PLANNED UNIT DEVELOPMENT-TRADITIONAL NEIGHBORHOOD DEVELOPMENT, TRADITIONAL NEIGHBORHOOD DEVELOPMENT INFILL, PIN PLANNED INDUSTRIAL, PUD-COM PLANNED UNIT DEVELOPMENT-COMMERCIAL AND PUD-RES PLANNED UNIT DEVELOPMENT-RESIDENTIAL DISTRICTS AND PARK AND RIDE LOT ALLOWABLE BY SPECIAL USE PERMIT IN A-1 AGRICULTURAL, C-1 CONSERVATION, R-R RURAL RESIDENTIAL, R-1 R-2, R-3 RESIDENTIAL, RM-1 MULTIPLE-FAMILY RESIDENTIAL AND PMR PLANNED MOBILE HOME RESIDENTIAL PARK DISTRICTS

BE IT ORDAINED, by the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, Entitled Zoning, Section 10-21 through 10-36, Section 10-41 and Section 10-61 of the Code of the County of Montgomery, Virginia shall be amended and reordained as follows:

Sec. 10-21. A-1 Agricultural District.

(4) (i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Bed and breakfast inn.
- (c) Boarding house.
- (d) Campground.
- (e) Camp, boarding.
- (f) Civic club.
- (g) Contractor's storage yard.

- (h) Country club.
- (i) Country inn.
- (j) Custom meat cutting, processing and packaging.
- (k) Day care center.
- (l) Disposal facility, landfill.
- (m) Exploratory activities associated with extractive industries.
- (n) Extractive industries and accessory uses including, but not limited to, the mining of minerals and the operation of oil and gas wells.
- (o) Game preserve.
- (p) Garden center.
- (q) General store or specialty shop, provided gross floor area is two thousand (2,000) square feet or less.
- (r) Golf course.
- (s) Golf driving range.
- (t) Grain mill, feed mill.
- (u) Home business.
- (v) Junkyard, automobile graveyard.
- (w) Kennel, commercial (refer to use limitations in subsection 7).
- (x) Landfill (see Disposal facility).
- (y) Livestock market.
- (z) Park, lighted.
- (aa) Park and ride lot.
- ~~(aa)~~(bb) Playground, lighted.
- ~~(bb)~~(cc) Public utility plant, other.
- ~~(ee)~~(dd) Public utility substations.
- ~~(dd)~~(ee) Public utility plant water or sewer (not including distribution or collection lines).
- ~~(ee)~~(ff) Recreational vehicle park.
- ~~(ff)~~(hh) Recycling collection points.
- ~~(gg)~~(ii) Repair shop, automotive (refer to use limitations in subsection 7).
- ~~(hh)~~(jj) Restaurant, provided gross floor area is two thousand (2,000) square feet or less.
- ~~(ii)~~(kk) Rural resort.
- ~~(jj)~~(ll) Sawmill.
- ~~(kk)~~(mm) Shooting range (as principal use or accessory to a gun shop). (Refer to use limitations in subsection 7).
- ~~(ll)~~(nn) Slaughterhouse.
- ~~(mm)~~(oo) Solid waste collection point.
- ~~(nn)~~(pp) Stable, commercial.
- ~~(oo)~~(pp) Structures, nonresidential, totaling in excess of twenty thousand (20,000) gross square feet.
- ~~(pp)~~(qq) Structures over forty (40) feet in height.

- ~~(qq)~~(rr) Telecommunications tower, freestanding.
- ~~(ff)~~(ss) Transition house.
- ~~(ss)~~(tt) Flea market (also subject to requirements of article VI of the County Code).
- ~~(tt)~~(uu) Stone engraving and sales.
- ~~(uu)~~(vv) School of special instruction.

Sec. 10-22. C-1 Conservation District.

(4)(i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Campground.
- (c) Bed and breakfast inn.
- (d) Park, unlighted.
- (e) Park and ride lot.
- ~~(e)~~(f) Playground, unlighted.
- ~~(f)~~(g) Sawmill, temporary.
- ~~(g)~~(h) Structures over sixty-five (65) feet in height.
- ~~(h)~~(i) Telecommunications tower, freestanding.

Sec. 10-23. R-R Rural Residential District.

(4)(i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Bed and breakfast inn.
- (c) Cemetery.
- (d) Civic club.
- (e) Country club.
- (f) Day care center.
- (g) Fire, police and rescue stations.
- (h) Golf course.
- (i) Golf driving range.

- (j) Home business.
- (k) Park, lighted.
- (l) Park and ride lot.
- ~~(m)~~(m) Playground, lighted.
- ~~(n)~~(n) Public utility substations.
- ~~(o)~~(o) Public utility plant, water or sewer.
- ~~(p)~~(p) Stable, commercial.
- ~~(q)~~(q) Telecommunications tower, freestanding.
- ~~(r)~~(r) Veterinary practice, animal hospital.
- ~~(s)~~(s) Structures over fifty (50) feet in height.

Sec. 10-24. R-1 Residential District.

(4)(i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Bed and breakfast inn.
- (c) Boarding house.
- (d) Cemetery.
- (e) Civic club.
- (f) Country club.
- (g) Day care center.
- (h) Fire, police and rescue stations.
- (i) Funeral home.
- (j) Golf course.
- (k) Home business.
- (l) Nursing home.
- (m) Park, lighted or unlighted.
- (n) Park and ride lot.
- ~~(o)~~(o) Playground, lighted or unlighted.
- ~~(p)~~(p) Private club.
- ~~(q)~~(q) Public utility plant, other.
- ~~(r)~~(r) Public utility plant, water or sewer.
- ~~(s)~~(s) Transition house.

Sec. 10-25. R-2 Residential District.

(4)(i) Uses permissible by special use permit. The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Bed and breakfast inn.
- (c) Boarding house.
- (d) Cemetery.
- (e) Civic club.
- (f) Country club.
- (g) Day care center.
- (h) Fire, police and rescue stations.
- (i) Funeral home.
- (j) Golf course.
- (k) Home business.
- (l) Nursing home.
- (m) Park, lighted or unlighted.
- (n) Park and ride lot.
- ~~(o)~~ Playground, lighted or unlighted.
- ~~(p)~~ Private club.
- ~~(q)~~ Public utility plant, other.
- ~~(r)~~ Public utility plant, water or sewer.
- ~~(s)~~ Transition house.

Sec. 10-26. R-3 Residential District.

(4)(i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Bed and breakfast homestay.
- (c) Boarding house.
- (d) Cemetery.

- (e) Civic club.
- (f) Country club.
- (g) Day care center.
- (h) Fire, police and rescue stations.
- (i) Funeral home.
- (j) Golf course.
- (k) Home business.
- (l) Manufactured home, Class A and Class B.
- (m) Medical care facility.
- (n) Nursing home.
- (o) Park, lighted or unlighted.
- (p) Park and ride lot.
- ~~(p)~~(q) Playground, lighted or unlighted.
- ~~(q)~~(r) Public utility plant, other.
- ~~(r)~~(s) Public utility substations.
- ~~(s)~~(t) Transition house.

Sec. 10-27. RM-1 Multiple-Family Residential District.

(4)(i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all other applicable regulations:

- (a) Boarding house.
- (b) Cemetery.
- (c) Civic club.
- (d) Country club.
- (e) Country inn.
- (f) Congregate care facility.
- (g) Day care center.
- (h) Dormitory.
- (i) Fire, police and rescue stations.
- (j) Funeral home.
- (k) Golf course.
- (l) Medical care facility.
- (m) Nursing home.
- (n) Park, lighted or unlighted.
- (o) Park and ride lot.
- ~~(o)~~(p) Playground, lighted or unlighted.
- ~~(p)~~(q) Public utility substations.
- ~~(q)~~(r) Senior living facility.
- ~~(r)~~(s) Transition house.

Sec. 10-28. GB General Business.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:
- (a) Apartment as accessory use, maximum of two (2) per business structure.
 - (b) Assembly of electrical, electronic devices, less than three thousand (3,000) square feet floor area.
 - (c) Automotive, light truck, sales, service, rental and repair, excluding motor fuel sales.
 - (d) Building material sales.
 - (e) Business or trade school.
 - (f) Cabinet shop, furniture, upholstery, craft industry of less than three thousand (3,000) square feet.
 - (g) Cemetery.
 - (h) Church.
 - (i) Civic club.
 - (j) Community center.
 - (k) Conference or training center.
 - (l) Crematorium.
 - (m) Custom meat cutting, processing and sales (excluding slaughtering).
 - (n) Day care center.
 - (o) Equipment sales and service.
 - (p) Financial services.
 - (q) Fire, police, rescue facility.
 - (r) Funeral home.
 - (s) General store, convenience store without motor fuel sales.
 - (t) Homeless shelter.
 - (u) Hotel, motel.
 - (v) Laundromat.
 - (w) Library.
 - (x) Medical care facility.
 - (y) Motor vehicle rentals.
 - (z) Office, administrative, business or professional.
 - (aa) Park.
 - (bb) ~~Park and ride lot.~~ Park and ride lot, of fifty (50) or fewer spaces.
 - (cc) Pet, household.
 - (dd) Post office.
 - (ee) Printing service.
 - (ff) Public utility lines, other distribution or collection facility.

- (gg)Public utility lines, water or sewer.
- (hh)Radio station; excluding tower.
- (ii)Restaurant.
- (jj)Retail sales and services.
- (kk)School.
- (ll)Shopping center.
- (mm)Telecommunication tower, attached.
- (nn)Veterinary practice, animal hospital.
- (oo)Garden center.
- (pp)School of special instruction.

(4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:

- (a) Assembly of electrical, electronic devices, greater than three thousand (3,000) square feet floor area.
- (b) Boarding house.
- (c) Truck, trailer, heavy equipment sales, service, rental and repair.
- (d) Building greater than fifty (50) feet in height.
- (e) Contractors service establishment.
- (f) Farm machinery sales and service.
- (g) Feed and seed store and mill.
- (h) General store, convenience store with motor fuel sales.
- (i) Golf driving range, miniature golf and similar outdoor recreation.
- (j) Kennel, commercial.
- (k) Livestock market.
- (l) Mini-warehouse.
- (m) Outpatient mental health and substance abuse center.
- (n) Park and ride lot of more than fifty (50) spaces.
- ~~(n)~~(o) Public utility plant, other.
- ~~(o)~~(p) Public utility substation.
- ~~(p)~~(q) Public utility plant, water or sewer.
- ~~(q)~~(r) Recreation establishment.
- ~~(r)~~(s) Recycling facility.
- ~~(s)~~(t) Service station.
- ~~(t)~~(u) Shooting range, indoor.
- ~~(u)~~(v) Telecommunication tower, freestanding.
- ~~(v)~~(w) Transition house.
- ~~(w)~~(x) Night club.
- ~~(x)~~(y) Stone engraving and sales.

Sec. 10-29. CB Community Business.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:
- (a) Apartment as accessory use, maximum of two (2) per business structure.
 - (b) Assembly of electrical, electronic devices, less than one thousand two hundred (1,200) square feet floor area.
 - (c) Automotive, light truck, sales, service, rental and repair, without motor fuel sales, less than two thousand (2,000) square feet.
 - (d) Business or trade school.
 - (e) Cabinet shop, furniture, upholstery, craft industry of less than one thousand two hundred (1,200) square feet.
 - (f) Cemetery.
 - (g) Church.
 - (h) Civic club.
 - (i) Community center.
 - (j) Conference or training center.
 - (k) Crematorium.
 - (l) Custom meat cutting, processing and sales (excluding slaughtering)
 - (m) Day care facility.
 - (n) Financial services.
 - (o) Fire, police, rescue facility.
 - (p) Funeral home.
 - (q) General, convenience store less than three thousand (3,000) square feet, without motor fuel sales.
 - (r) Homeless shelter.
 - (s) Library.
 - (t) Medical care facility.
 - (u) Garden center.
 - (v) Office, administrative, business or professional less than three thousand (3,000) square feet.
 - (w) Park, unlighted.
 - (x) ~~Park and ride lot, unlighted.~~ Park and ride lot, of fifty (50) or fewer spaces.
 - (y) Pet, household.
 - (z) Post office.
 - (aa) Printing service.
 - (bb) Public utility lines, other.
 - (cc) Public utility lines, water or sewer.

- (dd) Restaurant.
 - (ee) Retail sales and services less than three thousand (3,000) square feet.
 - (ff) Roadside stand.
 - (gg) School.
 - (hh) School of special instruction.
 - (ii) Telecommunication tower, attached.
- (4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:
- (a) Assembly of electrical, electronic devices, greater than one thousand two hundred (1,200) square feet floor area.
 - (b) Boarding house.
 - (c) Truck, trailer sales, service, rental and repair with outside operations.
 - (d) Building greater than thirty-five (35) feet in height.
 - (e) Contractors service establishment.
 - (f) Convenience store less than three thousand (3,000) square feet, with motor fuel sales.
 - (g) Dwelling, single-family or two-family.
 - (h) Farm machinery sales and service.
 - (i) Feed and seed store and mill.
 - (j) Golf course.
 - (k) Golf driving range.
 - (l) Kennel, commercial.
 - (m) Park and ride lot of more than fifty (50) spaces.
 - ~~(m)~~(n) Public utility plant, other.
 - ~~(n)~~(o) Public utility substation.
 - ~~(o)~~(p) Public utility plant, water or sewer.
 - ~~(p)~~(q) Recreation establishment.
 - ~~(q)~~(r) Recycling facility.
 - ~~(r)~~(s) Telecommunication tower, freestanding.
 - ~~(s)~~(t) Transition house
 - ~~(t)~~(u) Veterinary practice, animal hospital.
 - ~~(u)~~(v) Mini-warehouse.
 - ~~(v)~~(w) Stone engraving and sales.

Sec. 10-30. M-1 Manufacturing.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:

- (a) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts.
- (b) Automobile or mobile home assembling, painting, public garages, upholstering repairing, rebuilding, reconditioning, truck repairing or overhauling and tire retreading or recapping.
- (c) Cabinets, furniture and upholstery shop.
- (d) Civic club.
- (e) Contractor service establishment.
- (f) Crematorium.
- (g) Custom meat cutting, processing and sales.
- (h) Day care center.
- (i) Equipment sales and service.
- (j) Feed and seed store and mill.
- (k) Fire, police, rescue facility.
- (l) Fruit processing and storage.
- (m) Laboratory.
- (n) Laundry, dry cleaning plant.
- (o) Manufacture of musical instruments, toys, novelties, rubber and metal stamps.
- (p) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
- (q) Manufacturing, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, rubber, precious or semiprecious metals or stones, shell, straw, textiles, tobacco, wood, yarn and paint.
- (r) Manufacturing, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, food and tobacco products.
- (s) Monument stone works.
- (t) ~~Park and ride lot.~~ Park and ride lot, of fifty (50) or fewer spaces.
- (u) Pet, household.
- (v) Public utility lines, other.
- (w) Public utility line, water or sewer.
- (x) Railroad facility.
- (y) Recycling facility.
- (z) Retail sales and service incidental to any other permitted use.
- (aa) Telecommunication tower, attached.
- (bb) Truck terminal.
- (cc) Welding or machine shop.
- (dd) Wholesale business, storage warehouse.
- (ee) Wood preserving operation.

- (4) *Uses permissible special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter:
- (a) Airport.
 - (b) Building material sales yard.
 - (c) Cement manufacturing, concrete mixing plant, block plant and production of other concrete and asphaltic products.
 - (d) Contractors' storage yard and/or rental of equipment commonly used by contractors.
 - (e) Extractive industries and accessory uses including, but not limited to, the mining of minerals, the operation of oil and gas wells, and exploratory activities associated with extractive industry.
 - (f) Fertilizer manufacturing.
 - (g) Junkyards and automobile graveyards, provided the use is not within three hundred (300) feet of an existing dwelling.
 - (h) Kennel, commercial.
 - (i) Park and ride lot of more than fifty (50) spaces.
 - ~~(j)~~(j) Public utility plant, other.
 - ~~(j)~~(k) Public utility substation.
 - ~~(k)~~(l) Public utility plant, water.
 - ~~(l)~~(m) Refining, processing or distribution of petroleum, petroleum products, natural gas and other forms of liquid fuel, aboveground.
 - ~~(m)~~(n) Sawmill and planing mill, coal and wood yard.
 - ~~(n)~~(o) Storage of bulk petroleum products.
 - ~~(o)~~(p) Telecommunication tower, freestanding.
 - ~~(p)~~(q) Use listed in subsection (3), if a manufacturing process is to take place outside.
 - ~~(q)~~(r) Use similar to (a) through (o) above.
 - ~~(r)~~(s) Slaughterhouse.

Sec. 10-31. M-L Manufacturing-Light.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:
- (a) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts.
 - (b) Business or trade school.
 - (c) Cabinets, furniture and upholstery shop.
 - (d) Civic club.
 - (e) Conference or training center.
 - (f) Crematorium.

- (g) Day care center.
- (h) Equipment sales and service.
- (i) Financial services.
- (j) Fire, police, rescue facility.
- (k) Flex-industrial use.
- (l) Homeless shelter.
- (m) Hotel, motel.
- (n) Laboratory.
- (o) Laundry, dry cleaning plant.
- (p) Manufacture of musical instruments, toys, novelties, rubber and metal stamps.
- (q) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
- (r) Manufacturing, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, food and tobacco products.
- (s) Monument stone works.
- (t) Offices, administrative, business or professional.
- (u) ~~Park and ride lot.~~ Park and ride lot, of fifty (50) or fewer spaces.
- (v) Pet, household.
- (w) Post office.
- (x) Printing service.
- (y) Public utility lines, other.
- (z) Public utility lines, water or sewer.
- (aa) Research, experimental, testing or development activity.
- (bb) Retail sales and service incidental to any other permitted use.
- (cc) Telecommunication tower, attached.
- (dd) Veterinary service; animal hospital.
- (ee) Wholesale business, storage warehouses.

(4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:

- (a) Airport.
- (b) Farm machinery sales and service.
- (c) Feed and seed stores and mill.
- (d) Kennel, indoor.
- (e) Mini-warehouse.
- (f) Motor vehicles rentals.
- (g) Recreation establishment.
- (h) Recycling facility.
- (i) Park and ride lot of more than fifty (50) spaces.

- ~~(j)~~(i) Public utility plant, other.
- ~~(j)~~(k) Public utility substation.
- ~~(k)~~(l) Public utility plant, water or sewer.
- ~~(j)~~(m) Shooting range, indoor.
- ~~(m)~~(n) Telecommunication tower, freestanding.
- ~~(n)~~(o) Use listed in subsection (3), if a manufacturing process is to take place outside.
- ~~(e)~~(p) Use similar to (a) through (m) above.

Sec. 10-32. PUD-TND Planned Unit Development-Traditional Neighborhood Development District.

(5) *TND Subarea Standards and Uses.*

(i) *Neighborhood Center:* Each PUD-TND neighborhood shall have a core made up primarily of commercial, residential, civic or institutional, and open space uses.

(b) *Permitted Neighborhood Center Uses by Category:*

1. *Commercial uses.*

- a. Retail Sales and Services including, convenience stores and general stores without fuel sales.
- b. Restaurants and Outdoor seating (see Section 10-32(3)(c)).
- c. Financial Institutions.
- d. Hotels and Motels.
- e. Office, administrative, business or professional.
- f. Medical Care Facility.
- g. Day Care Center.
- h. Funeral Home.
- i. Conference or training center.
- j. Public or private parking structures, areas, and lots that are accessory to any permitted or permissible commercial, residential, civic, institutional or open space use.
- k. Church.
- l. Laundromat.
- m. Park and ride lot, of fifty (50) or fewer spaces.

(c) *Neighborhood Center Uses permitted by special use permit.* Any of the following uses may be allowed in conjunction with a permitted commercial use subject to approval of a special use permit filed as part of the initial development plan at the time of rezoning; however, the board of supervisors may impose conditions on such uses even if approved as part of the initial development plan.

- 1. Drive-through windows serving or associated with permitted uses provided such facilities are located at the rear of the principal structure and do not conflict with pedestrian travel ways. In no case shall the drive through lane or window abut or face a public street.
- 2. Outdoor storage, display and/or sales serving or associated with a by-right permitted use, if any portion of the use would be visible from a travelway.

3. Individual buildings over twenty thousand (20,000) total square feet in size, or greater than ten thousand (10,000) square feet floorplate.
4. Fuel sales with pumps located at the rear of the associated retail structure and which do not conflict with pedestrian travel ways or interrupt street frontage. In no case shall the gas pump canopy abut a public street.
5. Park and ride lot of more than fifty (50) spaces.

Sec. 10-32.1. Traditional Neighborhood Development Infill District.

(6) *Permitted traditional neighborhood infill district uses by category:*

1. *Commercial uses.*

- a. Retail Sales and Services, no larger than ten thousand (10,000) square feet in size.
- b. Convenience stores and general stores without fuel sales.
- c. Restaurants and outdoor seating associated with Restaurants subject to the provisions of section 11.d, below.
- d. Financial services.
- e. Office, administrative, business or professional, less than twenty thousand (20,000) square feet in size, and no more than ten thousand (10,000) square feet per floor plate.
- f. Day care center.
- g. Parking areas that are accessory to any permitted or permissible commercial, residential, civic, institutional or open space use.
- h. Funeral home.
- i. Medical care facility.
- j. Mixed use buildings (integrated horizontally or vertically) which include residential and commercial uses.
- k. Laundromat.
- l. Printing services.
- m. Park and ride lot, of fifty (50) or fewer spaces.

(7) *Uses permitted by special use permit.* Any of the following uses permitted by special exception may be approved as part of the initial development plan at the time of rezoning; however, the board of supervisors may impose conditions on such uses even if approved as part of the initial development plan.

- a. Retail Sales and Services, above ten thousand (10,000) square feet and no larger than twenty thousand (20,000) square feet in size;
- b. Multifamily dwellings, including senior housing;
- c. Nursing home, congregate care facility, and assisted living facilities.
- d. Farm Market;
- e. Hotels and motels;
- f. Conference or training center;

- g. Home business;
- h. School;
- i. Drive-through windows serving or associated with permitted uses provided such facilities are located at the rear or side of the structure and do not conflict with pedestrian travel ways. In no case shall the drive through lane or window abut or face a public street.
- j. Transition house.
- k. Park and ride lot of more than fifty (50) spaces.

Sec. 10-33. PIN Planned Industrial.

(3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter:

- (a) Animal hospital.
- (b) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts.
- (c) Business or trade school.
- (d) Cabinets, furniture and upholstery shop.
- (e) Cemetery, mausoleum or memorial park.
- (f) Civic club.
- (g) Conference or training center.
- (h) Crematorium.
- (i) Day care center.
- (j) Equipment sales and service.
- (k) Financial services.
- (l) Fire, police, rescue facility.
- (m) Flex-industrial uses.
- (n) Homeless shelter.
- (o) Hotel, motel.
- (p) Laboratory.
- (q) Laundry, dry cleaning plant.
- (r) Manufacture of musical instruments, toys, novelties, rubber and metal stamps.
- (s) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
- (t) Manufacturing, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, food and tobacco products.
- (u) Mini warehouse.
- (v) Monument stone works.
- (w) Office, administrative, business or professional.
- (x) ~~Park and ride lot.~~ Park and ride lot, of fifty (50) or fewer spaces.

- (y) Pet, household.
 - (z) Post office.
 - (aa) Printing service.
 - (bb) Public utility lines, other.
 - (cc) Public utility lines, water or sewer.
 - (dd) Public utility substation.
 - (ee) Research, experimental, testing or development activity.
 - (ff) Retail sales and service incidental to any other permitted use.
 - (gg) Storage warehouse.
 - (hh) Telecommunication tower, attached.
 - (ii) Veterinary service.
 - (jj) Wholesale business.
- (4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter:
- (a) Airport.
 - (b) Farm machinery sales and service.
 - (c) Feed and seed store and mill.
 - (d) Kennel, indoor.
 - (e) Motor vehicles rentals.
 - (f) Park and ride lot of more than fifty (50) spaces.
 - ~~(g)~~(g) Public utility plant, other.
 - ~~(g)~~(h) Public utility plant, water or sewer.
 - ~~(h)~~(i) Recreation, commercial.
 - ~~(i)~~(j) Recycling facility.
 - ~~(j)~~(k) Shooting range, indoor.
 - ~~(k)~~(l) Telecommunication tower, freestanding.
 - ~~(l)~~(m) Use listed in subsection (3), if a manufacturing process is to take place outside.
 - ~~(m)~~(n) Uses similar to (a) through (l) above.

Sec. 10-34. PUD-COM Planned Unit Development-Commercial District.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:
- (a) Apartment as accessory use.
 - (b) Assembly of electrical, electronic devices, less than three thousand (3,000) square feet floor area.
 - (c) Automotive, light truck, sales, service, rental and repair.

- (d) Building material sales.
- (e) Business or trade school.
- (f) Cabinet shop, furniture, upholstery, craft industry of less than three thousand (3,000) square feet.
- (g) Cemetery.
- (h) Church.
- (i) Civic club.
- (j) Conference or training center.
- (k) Convenience store, without motor fuel sales.
- (l) Crematorium.
- (m) Custom meat cutting, processing and sales (excluding slaughtering).
- (n) Day care center.
- (o) Equipment sales and service.
- (p) Financial services.
- (q) Fire, police, rescue facility.
- (r) Funeral home.
- (s) General store, convenience store without motor fuel sales.
- (t) Homeless shelter.
- (u) Hospital, medical center, emergency care.
- (v) Hotel, motel.
- (w) Library.
- (x) Medical care facility.
- (y) Motor vehicle rentals.
- (z) Movie theater.
- (aa) Office, administrative, business or professional.
- (bb) Park.
- (cc) Park and ride lot. Park and ride lot, of fifty (50) or fewer spaces.
- (dd) Pet, household.
- (ee) Post office.
- (ff) Printing service.
- (gg) Public utility lines, other.
- (hh) Public utility lines, water or sewer.
- (ii) Radio station, excluding tower.
- (jj) Recreation club.
- (kk) Recreation establishment.
- (ll) Recycling collection point.
- (mm) Restaurant.
- (nn) Retail sales and services.
- (oo) School.
- (pp) Shopping center.
- (qq) Senior living facilities.

- (rr) Telecommunication tower, attached.
- (ss) Veterinary practice, animal hospital.

(4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:

- (a) Assembly of electrical, electronic devices, greater than three thousand (3,000) square feet floor area.
- (b) Building greater than fifty (50) feet in height.
- (c) Convenience store with gasoline sales.
- (d) Dwelling unit.
- (e) General store, convenience store with motor fuel sales.
- (f) Golf driving range, miniature golf and similar outdoor recreation.
- (g) Kennel.
- (h) Mini-warehouse.
- (i) Mobile home, Class A or B.
- (j) Motor vehicles rentals.
- (k) Park and ride lot of more than fifty (50) spaces.
- ~~(k)(l)~~ Public utility plant, other.
- ~~(l)(m)~~ Public utility plant, water or sewer.
- ~~(m)(n)~~ Public utility substation.
- ~~(n)(o)~~ Public water or sewer treatment plant.
- ~~(o)(p)~~ Recycling facility.
- ~~(p)(q)~~ Service station.
- ~~(q)(r)~~ Telecommunication tower, freestanding.
- ~~(r)(s)~~ Other use types that are not listed above and that are determined to be appropriate and compatible with the proposed development and surrounding uses may be specifically approved in concurrent rezoning and special use permit applications or in a subsequent special use permit application.

Sec. 10-35. PUD-RES Planned Unit Development-Residential district.

(3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter:

- (a) Cemetery.
- (b) Church.
- (c) Civic club.
- (d) Conference or training center.
- (e) Congregate care facility.
- (f) Convenience store, without motor fuel sales.

- (g) Day care center.
- (h) Dwelling, multifamily (apartment).
- (i) Dwelling, single-family.
- (j) Dwelling, single-family attached (townhouse).
- (k) Dwelling, two-family (duplex).
- (l) Financial services.
- (m) Fire, police and rescue station.
- (n) Funeral home.
- (o) Golf course.
- (p) Home occupation (new).
- (q) Library.
- (r) Medical care facility.
- (s) Mobile home, Class A.
- (t) Nursing home.
- (u) Office, administrative, business or professional.
- (v) Park, lighted or unlighted.
- (w) Park and ride lot, of fifty (50) or fewer spaces.
- ~~(w)(x)~~ pet, household.
- ~~(x)(y)~~ Playground, lighted or unlighted.
- ~~(y)(z)~~ Post office.
- ~~(z)(aa)~~ Public facility.
- ~~(aa)(bb)~~ Public utility lines, other.
- ~~(bb)(cc)~~ Public utility lines, water or sewer.
- ~~(cc)(dd)~~ Recreation establishment.
- ~~(dd)(ee)~~ Recycling collection point.
- ~~(ee)(ff)~~ Restaurant with gross floor area of less than two thousand (2,000) square feet.
- ~~(ff)(gg)~~ Retail sales and services.
- ~~(gg)(hh)~~ School.
- ~~(hh)(ii)~~ Senior living facility.
- ~~(ii)(jj)~~ Telecommunication tower, attached.

- (4) *Uses permitted by special use permit.* Other use types that are not listed above and that are determined to be appropriate and compatible with the proposed development and surrounding uses may be specifically approved in concurrent rezoning and special use permit applications or in a subsequent special use permit application.

- (a) Park and ride lot of more than fifty (50) spaces.

Sec. 10-36. PMR Planned Mobile Home Residential Park.

- (4) *Uses permissible by special use permit.*
 - (a) New Planned Mobile Home Residential Park-PMR.

- (b) Existing Planned Mobile Home Residential Park-PMR.
- (c) Retail convenience sales subject to subsection (7).
- (d) Service facilities such as laundries, storage areas, recreation facilities.
- (e) Expansion of existing PMR may be permitted when both existing and expansion portions comply with subsection (2).
- (f) Park and ride lot.

Sec. 10-41. Supplemental district regulations.

(21) Park and Ride Lot.

- (a) Park and ride lots shall be exempt from all maximum lot coverage requirements contained in this ordinance.
- (b) Park and ride lots shall meet the minimum yard requirements of the zoning district in which they are located.
- (c) Park and ride lots shall comply with the off-street parking and loading requirements listed in Sections 10-44 (2) (c) through 10-44 (2) (f).
- (d) Park and ride lots shall comply with the parking lot landscaping and screening requirements listed in Section 10-43 (9).

Sec. 10-61. Definitions.

Park and ride lot: A public or private parking lot located, and designed for, and intended to be used solely by commuters to park their automobiles, light trucks, ~~or light vans,~~ motorcycles or bicycles while they travel to and from their place of work or school, or while sightseeing, shopping, running errands, or otherwise travelling in the short-term using buses, car pools or other means. Such lot ~~may~~ shall be lighted for security purposes.



MONTGOMERY COUNTY DEPARTMENT OF
PLANNING & GIS SERVICES

PLANNING
GIS & MAPPING

755 ROANOKE STREET, SUITE 2A, CHRISTIANSBURG, VIRGINIA 24073-3177

MEMORANDUM

TO: Planning Commission

FROM: Dari S. Jenkins, CZA *DJS*
Planning & Zoning Administrator

DATE: September 4, 2013

SUBJ: **September 11, 2013 Planning Commission Agenda Item 6
Annual Zoning Ordinance Amendments: State Code and Others**

Per the discussion and comments offered by the Commission on August 21, 2013, attached are proposed zoning ordinance amendments drafted in ordinance format for your review and action. Most of these amendments are required by state code.

SUMMARY OF PROPOSED AMENDMENTS:

Section 10-22; C-1 Conservation District

- Clarify that "Sawmill, temporary" is a by-right use and "Sawmill" is a use allowed by Special Use Permit in the district.

Section 10-41(2A); Temporary Family Health Care Structures

- Amend the definition of "Temporary Family Health Care Structure" to comply with changes in the state enabling legislation.

Section 10-43; Landscaping and buffering

- Add "Cemeteries" to the list of uses that shall require a minimum of ten percent tree canopy shown on the final site plan to comply with state law change.

Section 10-51; Board of Zoning Appeals

- Clarify voting requirements for action taken by the Board of Zoning Appeals.

Section 10-54; Special development approvals

- Add "military installation" to the list of places proposed zoning amendments shall be referred for comment in order to comply with state law change.

Section 10-55; Procedures before the Board of Zoning Appeals

- Amend certain procedures before the Board of Zoning Appeals to comply with state law change.

**September 11, 2013, Planning Commission Agenda Item 6
Annual Zoning Ordinance Amendments – State Code and Others**

Please see the attachments for the details of each amendment. Additions are indicated by underlined text and deletions are indicated by strikethrough text.

Please don't hesitate to contact me if you have questions regarding the changes prior to the meeting.

DJ

Attachments:

AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING
OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA,
BY AMENDING SECTION 10-22 TO CLARIFY THAT SAWMILL,
TEMPORARY USE IS A BY-RIGHT USE AND
SAWMILL IS A USE ALLOWABLE BY SPECIAL USE PERMIT
IN C-1 CONSERVATION DISTRICT

BE IT ORDAINED, by the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning, Section 10-22 shall be amended and reordained as follows:

Sec. 10-22. C-1 Conservation District.

(1) *Purpose.* The C-1 Conservation District is established for the specific purpose of providing recreational, conservation and scenic areas for the growing population of the county and its vicinity. It is intended to facilitate the conservation of water and other natural resources, to assist the U.S. Forest Service with its conservation programs, to encourage the closure of the boundaries of the national forest within one (1) contiguous conservation area and to encourage the retention of the open space characteristic of excessive slope and floodplain areas or other areas not amenable to good development practices. This district contains all of the forest and mountain land in the Jefferson National Forest. The land area of this district is essentially undeveloped open space, except for some private holdings. This district is generally intended to apply to lands designated in the comprehensive plan as rural or resource stewardship areas.

(2) *Qualifying lands.* Lands qualifying for inclusion in this district shall be current C-1 on the date of adoption of this chapter and other lands within areas mapped as rural or resource stewardship in the comprehensive plan. Qualifying lands shall not generally include those served or planned to be served by public water or sewer service. The minimum area required to create a district is twenty (20) acres of total contiguous land.

(3) *Use permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter, and all other applicable regulations:

- (a) Agriculture.
- (b) Agriculture, small scale.
- (c) Bed and breakfast homestay.
- (d) Cemetery.
- (e) Dwelling, single-family.
- (f) Game preserve.
- (g) Home occupation, as defined in this chapter.
- (h) Manufactured home, Class A and Class B.
- (i) Natural area.

- (j) Pet, farm.
- (k) Pet, household.
- (l) Public utility lines, other; public utility lines, water and sewer.
- (m) Telecommunications tower, attached.
- (n) Veterinary practice, animal hospital.
- (o) Farm enterprise.
- (p) Sawmill, temporary.

(4)(i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Campground.
- (c) Bed and breakfast inn.
- (d) Park, unlighted.
- (e) Playground, unlighted.
- (f) Sawmill, temporary.
- (g) Structures over sixty-five (65) feet in height.
- (h) Telecommunications tower, freestanding.

(4)(ii) The following uses may be permitted by the board of zoning appeals as special uses, subject to the requirements of this chapter and all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height.

(5) *Lot requirements.*

- (a) *Minimum lot area.* Two and one-half (2.5) acres.
- (b) *Density.* In addition to the minimum required lot area defined above, the maximum gross density (total number of lots per parent parcel after subdividing) for residential development in the C-1 district shall be in accord with the following sliding scale:

Parent Parcel Area	Total Lots Permitted on Parent Parcel
Less than 2.5 acres	0 lots
Less than 5.0 acres	1 lot
Less than 7.5 acres	Up to 2 lots
7.5 acres up to 10.0 acres	Up to 3 lots
More than 10.0 acres	One (1) additional lot for every additional 30 acres over first 10 acres

All lots in the C-1 district are subject to all applicable regulations for on-site water supply and wastewater treatment, which may limit the number of lots permitted.

(c) *Lot access.* Lots shall be accessed from a road in the Virginia Department of Transportation (VDOT) system or from a hard-surfaced road designed by a professional engineer to accommodate projected volumes, loads and vehicle types and approved by the zoning administrator; except that up to three (3) lots divided from any parent parcel may be served by a private access easement at least forty (40) feet in width.

(d) *Minimum width.* One hundred twenty (120) feet at the setback line of the front yard

(e) *Maximum length/width ratio.* Five to one (5:1) for any lot of less than twenty (20) acres.

(6) *Building requirements.*

(a) *Minimum yards.*

1. *Front.* Forty (40) feet (also refer to additional setback requirements pertaining to residential uses near intensive agricultural operations, Section 10-41(16)).

2. *Side.* Fifteen (15) feet for each principal structure.

3. *Rear.* Forty (40) feet.

4. *Accessory buildings.* Ten (10) feet to rear and side lot line.

(b) *Maximum building height.* No building or structure shall exceed forty (40) feet in height, as defined, except by special use permit and that for every one (1) foot above forty (40) feet, the building or structure shall be set back an additional two (2) feet up to a maximum of one hundred (100) feet.

(7) *Use limitations.* [Reserved.]

AN ORDINANCE AMENDING CHAPTER 10 ENTITLED ZONING OF THE CODE OF COUNTY OF MONTGOMERY, VIRGINIA BY AMENDING SECTION 10-41 (2A) BY AMENDING THE DEFINITION OF TEMPORARY FAMILY HEALTH CARE STRUCTURE TO COMPLY WITH CHANGES IN THE STATE ENABLING LEGISLATION

BE IT ORDAINED, by the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning Section 10-41 (2A) shall be amended and reordained as follows:

SECTION 10-41 (2A) Temporary Family Health Care Structures.

Subject to requirements imposed upon other authorized accessory structures a ~~Notwithstanding any other provision one~~ (1) temporary family health care structure, as shall be a permitted accessory use dwelling may be placed on any property zoned for a single family detached dwelling owned or occupied by a caregiver as his or her residence subject to the following:

1. Only one (1)~~The~~ temporary family health care structure (the structure) shall be allowed on a lot or parcel of land and shall be limited to one (1) occupant who shall be the mentally or physically impaired person ~~or in the case of a married couple, two (2) occupants, one of whom is a mentally or physically impaired person and the other requires assistance with one or more activities of daily living as defined in Section 63.2-2300 of the 1950 Code of Virginia, as amended, as certified in writing by a physician licensed in the Commonwealth.~~
2. The structure shall have a maximum gross floor area of three hundred (300) square feet.
3. The structure shall comply with applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code.
4. The structure shall not be placed on a permanent foundation.
5. The structure shall be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.
6. No signage that advertises or promotes the structure shall be permitted on the exterior of the structure or elsewhere on the property.
7. Written certification verifying the status of the mentally or physically impaired occupant of the structure shall be provided by a physician licensed by the Commonwealth.
8. Evidence of compliance with this Section must be provided annually on the anniversary date of the initial zoning approval, including a current written certification by a physician licensed by the Commonwealth.
9. The structure shall be removed within ~~thirty (30)~~ sixty (60) days of the date on which the structure was last occupied by a ~~after the~~ mentally or physically impaired person ~~is no longer receiving services or no longer~~ in need of the assistance for which the structure was provided.

For Purposes of this Section *Temporary Family Health Care Structure* shall mean a transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, (caregiver and mentally or physically impaired are defined in §15.2-2292.1 of the 1950 Code of Virginia, as amended) that is primarily assembled at a location other than its site of installation.

AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING
OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA,
BY AMENDING SECTION 10-43 (5) BY ADDING CEMETERIES TO
THE LIST OF USES THAT SHALL REQUIRE A MINIMUM
TEN (10) PERCENT TREE CANOPY PLAN SHOWN ON THE FINAL SITE PLAN
IN ORDER TO COMPLY WITH STATE LAW CHANGE

BE IT ORDAINED, by the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning, Section 10-43 (5) shall be amended and reordained as follows:

Sec. 10-43. Landscaping and buffering.

(5) Tree canopy requirements.

(a) For projects for which a site plan is required in accord with Section 10-53(3) a final site plan shall include a plan for the planting and/or replacement of trees on the site such that at maturity of ten (10) years, the minimum tree canopy shall be provided as follows:

1. Ten (10) percent tree canopy for sites zoned for, or to be used for commercial, ~~or~~ industrial uses or cemeteries.
2. Fifteen (15) percent tree canopy for sites zoned for, or to be used for residential uses.

AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING
OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA,
BY AMENDING SECTION 10-51 TO CLARIFY THE VOTING REQUIREMENTS FOR
ACTION TAKEN BY THE BOARD OF ZONING APPEALS

BE IT ORDAINED, by the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning, Section 10-51 shall be amended and reordained as follows:

Sec. 10-51. Board of zoning appeals.

- (1) *Purpose.* The board of zoning appeals is established to perform those duties as set forth in Code of Virginia, § 15.2-2309.
- (2) *Authority and establishment.* The board of zoning appeals heretofore established shall continue as the board of zoning appeals for the purpose of this chapter. Such body shall be known by the abbreviation "BZA."
- (3) *Membership.*
 - (a) The BZA shall consist of five (5) residents of the county, appointed by the Circuit Court of Montgomery County, Virginia.
 - (b) The term of office of the membership shall be for five (5) years, with the term of one (1) member expiring each year.
 - (c) The secretary of the BZA shall notify the court at least thirty (30) days in advance of the expiration of any term of office and shall also notify the court promptly of any vacancy. Appointments to fill such vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves.
 - (d) A member whose term expires shall continue to serve until his successor is appointed and qualifies.
 - (e) Members of the BZA shall hold no other public office in the county, except that one (1) member may be a member of the planning commission.
 - (f) Any BZA member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause by the court which appointed the member, after a hearing held on at least fifteen (15) days notice to the member sought to be removed.
 - (g) Any member of the BZA shall be disqualified to act upon a matter before the BZA with respect to property, pursuant to Code of Virginia, ~~§ 2.1-636(11)~~ §2.2-3112.
- (4) *Officers.*
 - (a) The BZA shall elect, from its own membership, a chair and a vice chair who shall each serve an annual term and who may succeed themselves. The vice chair shall act as chair in the absence of the chair.
 - (b) The zoning administrator shall serve as secretary to the BZA, prepare minutes of meetings, keep all records and conduct official correspondence. A court stenographer may be employed to record such proceedings as the board of

zoning appeals may direct. In the absence of the zoning administrator at any meeting, the BZA shall appoint some other person to prepare the minutes thereof.

(5) *Meetings and hearings.*

- (a) Meetings or hearings of the BZA shall be held at the call of the chair, or acting chair, or at the request of any two (2) members, provided that notice thereof has been mailed or delivered to each member of the BZA at least seven (7) days before the time set, or that a waiver or notice is obtained from each member.
- (b) For the conduct of a hearing, the taking of any action, or the transaction of any official business, a quorum shall be necessary. No less than a majority of all members of the BZA shall constitute a quorum. Except for matters governed by 10-55(2) no action of the BZA shall be valid unless authorized by a majority vote of those present and voting.
- (c) The zoning administrator may not vote on matters before the BZA.
- (d) The presiding chair may administer oaths, for the benefit of the BZA, and compel the attendance of witnesses.
- (e) Every person before the rostrum shall abide by the order and direction of the chair or acting chair. Discourteous or disorderly or contemptuous conduct shall be regarded as a breach of the privileges extended by the BZA and shall be dealt with as the chair deems proper.
- (f) All hearings of the BZA shall be open to the public.

(6) *Powers and duties.* The BZA shall have the following powers and duties:

- (a) To hear and decide appeals as provided in Section 10-55(2), Appeals, of this chapter.
- (b) To authorize upon application in specific cases variances from the terms of this chapter as provided in Section 10-55(1), Variances, of this chapter.
- (c) To hear and decide appeals from decisions of the zoning administrator regarding interpretation of the official zoning map where there is uncertainty as to the location of a zoning district boundary. After notice to the owners of the property affected by any such interpretation, and after a public hearing thereon, the BZA shall interpret the map in such way as to carry out the purpose and intent of this chapter for the particular district in question and shall be guided by the provisions of Section 10-4 of this chapter. The BZA shall not have the power, however, to rezone property or to change the location of zoning district boundaries as established by this chapter.
- (d) To hear and decide all other matters referred to and upon which it is required to pass by this chapter.
- (e) To make, alter and rescind rules and forms for its procedures, consistent with the ordinances of the county and the general laws of the state.
- (f) To prescribe procedures for the conduct of public hearings that it is required to hold.

- (7) *Records.* The BZA shall cause written records and minutes to be kept of all its proceedings, showing evidence presented, findings of fact by the BZA, and the vote of each member upon each question, or if absent or failing to vote, such fact. All such records shall be filed in the office of the zoning administrator.
- (8) *Periodic report.* The BZA shall report to the board of supervisors periodically, at intervals of not greater than twelve (12) months, summarizing all appeals and applications made to it since its last previous report and summarizing its decisions on such appeals and applications. At the same time that each such report is filed with the board, copies thereof shall also be filed with the zoning administrator, the planning commission, the county attorney, and the planning director.
- (9) *Limitations.* All provisions of this chapter relating to the BZA shall be strictly construed. The BZA, as a body of limited jurisdiction, shall act in full conformity with all provisions and definitions in this chapter and in strict compliance with all limitations contained therein.
- (10) *Decisions subject to judicial review.* All decisions and findings of the BZA shall be final decisions, and shall, in all decisions and findings of the instances, be subject to judicial review in the following manner:
 - (a) Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any taxpayer or any officer, department, board or bureau of the county, may present to the Circuit Court of Montgomery County a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the BZA.
 - (b) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the BZA and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the BZA and on due cause shown, grant a restraining order.
 - (c) The BZA shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
 - (d) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with the commissioner's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which a determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

- (e) Costs shall not be allowed against the BZA, unless it shall appear to the court that the BZA acted in bad faith or with malice in making the decision appealed from. In the event the decision of the BZA is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the writ of certiorari.

AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING
OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA,
BY AMENDING SECTION 10-54 (1)(d) BY ADDING MILITARY INSTALLATION
TO THE LIST OF PLACES PROPOSED ZONING AMENDMENTS SHALL BE
REFERRED TO FOR COMMENT IN ORDER TO
COMPLY WITH STATE LAW CHANGE

BE IT ORDAINED, by the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning, Section 10-54 (1)(d) shall be amended and reordained as follows:

Sec. 10-54. Special development approvals.

(1) *Zoning amendment.*

(d) *Staff review of application.*

1. *Referrals.* Upon acceptance of the application for zoning amendment, the planning director shall forward a copy of the application to any town, ~~and any county,~~ or state agencies or military installation whose comments are necessary or desirable for full and appropriate review of the merits of the application. In the event that approval of a feature or features of the application for zoning amendment by a state agency is necessary, the agent shall forward the zoning amendment application within ten (10) business days of receipt of a completed application to the appropriate state agency or agencies for review. Requirements for review including time limitations shall be in accordance with the provisions of Code of Virginia, § 15.2-2222.1. The application for rezoning shall not be referred to the planning commission until the review by the state agency or agencies is complete.
2. *Referral responsibilities.* Each reviewing agency shall prepare a staff report which sets out in writing its comments and recommendations regarding the application and shall forward such staff report to the director of planning.
3. *Review of referrals.* Referral comments shall be obtained and reviewed by the director of planning within thirty (30) calendar days after a final application has been accepted. The planning director shall forward to the applicant a written review of the issues raised by the application.
4. *Applicant response.* Upon receipt of the written review, an applicant may request a meeting with the director of planning to discuss the matters contained in the written review and the application generally. Such request shall be in writing and shall include a response to the matters raised in the written review received. If the applicant's response and/or such a meeting results in an amended application, the provisions of subsection (e) herein below shall apply.
5. *Required action by other board.* In the event this chapter requires that an application not be granted until acted upon by some government board or agency other than the planning commission or board of supervisors, then the

director of planning shall forward the application for amendment to such board or agency for appropriate action prior to the notification to an applicant that an application is ready to be presented to the board of supervisors or planning commission. If it deems it appropriate, the planning commission may recommend, and the board of supervisors may approve, an application contingent on required action by the other board or boards.

6. *Report and notice to applicant.* The director of planning shall compile the referrals and any other necessary information, prepare a written staff report with proposed findings and a recommendation, and notify the applicant that the report is complete and the application is ready to be presented to the board of supervisors or planning commission, as appropriate, for hearing.

AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING
OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA,
BY AMENDING SECTION 10-55 BY AMENDING CERTAIN PROCEDURES
BEFORE THE BOARD OF ZONING APPEALS
TO COMPLY WITH STATE LAW CHANGE

BE IT ORDAINED, by the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning, Section 10-55 shall be amended and reordained as follows:

Sec. 10-55. Procedures before the board of zoning appeals.

(1) *Variances.*

(a) *Jurisdiction and authority.* Upon application, the board of zoning appeals (BZA) shall exercise the jurisdiction and authority to grant a variance from the literal terms of this chapter in accordance with the procedures, standards, and limitations contained in this section. This authorization shall not be construed to grant the BZA the power to rezone property.

(b) *Authorized variances.* Variances, defined as reasonable deviations from the regulations and restrictions contained in this chapter, may be granted by the board of zoning appeals only in the following instances and in no others:

1. A variance from those provisions regulating the size or area of a lot or parcel of land.
2. A variance from those provisions regulating the size, height, area, bulk, setback, open space, yards, or location of a building or structure.

(c) *Unauthorized variance.* The BZA shall not be empowered to grant a variance from any of the provisions of this chapter relating to the use or density of land, buildings or structures. Nor shall the BZA grant a variance for any use or activity within the floodway portion of the floodplain overlay district if any increase in the hundred-year flood elevations would result.

(d) *Application for variance.* Any person owning property, or having a possessory or contract interest in property and the consent of the owner, may file an application for variance in regard to such property with the zoning administrator for one (1) or more of the variances authorized above. The application shall contain the following information and such additional information as the board of zoning appeals may, by rule, require or as may be required by Section 10-52(1)(c):

1. The particular provisions or requirements of this chapter which prevent the proposed construction on, or use of, the property.
2. The existing zoning of the property, including any previously approved modifications, conditions, or proffers.

3. The special conditions, circumstances or characteristics of the land, building or structure that prevent the use of the land in compliance with the requirements of this chapter.
4. The particular hardship which would result if the specified provisions or requirements of this chapter were to be applied to the subject property.
5. The extent to which it would be necessary to vary the requirements of this chapter in order to permit the proposed construction on, or use of, the property.
6. An explanation of how the requested variance conforms to each of the applicable standards set out in subsection (g), below.

(e) *Decision on variance application.* Upon receipt of a complete application for a variance, the zoning administrator shall notify the BZA which shall, within ninety (90) days, hold a duly noticed public hearing thereon. Such public hearing shall be advertised in the manner provided by Section 15.2-2204 of the Code of Virginia, and in addition, the property shall be posted in conformity with Section 10-52(3). The BZA shall, after such hearing, either approve, deny or approve with conditions the application for a variance. Its decision shall be supported by findings of fact and conclusions with respect to the standards of subsection (g), below. No such variance shall be granted by the BZA unless it makes all of the following required findings:

1. The strict application of this chapter would produce undue hardship to the property owner.
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. Such variance is not contrary to the public interest nor to the intended spirit and purpose of this chapter.
4. The granting of such variance will not be substantial detriment to adjacent property nor change the character of the zoning district in which the property is located.
5. Such variance would result in substantial justice being done.
6. The condition or situation of the property which gives rise to the need for such variance is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.

(f) *Planning commission recommendation.* The zoning administrator may transmit a copy of the application to the planning commission which may send a recommendation to the BZA or appear as a party at the hearing.

(g) *Standards for variances.* The board of zoning appeals shall base its required findings upon the particular evidence presented to it in each specific case where the property owner can show that:

1. The strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the utilization of the property because of:
 - a. The exceptional narrowness, shallowness, size, or shape of the property at the time of the effective date of this chapter, or
 - b. The exceptional topographic conditions or other extraordinary situations or conditions of the property, or
 - c. The condition, situation, or development of property immediately adjacent thereto.
2. The granting of such variance will alleviate a clearly demonstrable hardship ~~approaching confiscation~~, as distinguished from a special privilege or convenience sought by the applicant.
3. The property was acquired in good faith.
4. Satisfactory evidence exists to support all of the required findings of subsection (e), hereinabove.

(h) *Burden of applicant.* The applicant for a variance shall bear the burden of producing evidence to support the required findings of subsection (e), above, and to establish that the requested variance satisfies the standards for a variance of subsection (g), above.

(i) *Conditions and restrictions.* The BZA may impose such conditions and restrictions upon the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Failure to comply with any such conditions and restrictions shall constitute a violation of this chapter.

(j) *Withdrawal of application.* A variance may be withdrawn by the applicant at any time prior to the deadline for cancellation of the newspaper advertisement for the public hearing on the application. After said deadline, an application may be withdrawn only with the permission of the BZA.

(k) *Re-application.* If a variance is denied by the BZA on the merits, no application requesting the same relief with respect to all or part of the same property shall be considered by the BZA within twelve (12) months after the date of such denial.

(2) Appeals.

- (a) *Appeals from administrative ruling.* The board of zoning appeals is authorized to hear appeals from any order, requirement, decision or determination made by the zoning administrator in the administration or enforcement of this chapter. In this capacity the board exercises appellate jurisdiction as a quasi-judicial body, and its task is to determine what the ordinance means and how the ordinance applies to a particular fact situation.
- (b) *When appeals may be taken.* Appeals to the BZA may be taken by any person aggrieved by an officer, department, board or agency of the county or affected by a decision of the zoning administrator. Appeals shall be taken within thirty (30) days after the decision has been rendered by filing with the zoning administrator from whom the appeal is taken and with the chair of the BZA a notice of appeal specifying the grounds of the appeal. The zoning administrator shall forthwith forward to the chair of the BZA all the papers constituting the record upon which the action appealed from was taken.
- (c) *When appeals to stay proceedings.* A notice of appeal properly filed as herein provided shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the BZA that by reason of facts stated in the certificate a stay would, in the zoning administrator's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by a restraining order which may be granted by the BZA or by a proper court order on notice to the zoning administrator and for good cause shown.
- (d) *Decisions on appeal.* Within ninety (90) days after the notice of appeal has been filed, the BZA shall hold a public hearing, give public notice thereof required by Code of Virginia, § 15.2-2204 as well as due notice to the parties in interest, decide the appeal, and file with the zoning administrator its findings of fact and conclusions with respect to the appeal. The zoning administrator shall serve a copy of the decision on the appellant and upon each other person who was a party of record at the hearing. In exercising its powers, the ~~bza~~ BZA may reverse or affirm, wholly or partly, or may modify the decision appealed from. The concurring vote of a majority of the membership of the BZA members shall be necessary to reverse a decision. If the BZA's attempt to reach a decision results in a tie vote the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.
- (e) *Withdrawal of application.* An appeal may be withdrawn by the appellant at any time prior to the deadline for cancellation of the newspaper advertisement for the public hearing on the application. After said deadline, an appeal may be withdrawn only with the permission of the BZA.
- (f) *Proceedings to prevent construction of a building.* Where a building permit has been issued and the construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of the zoning ordinance by suit filed within fifteen (15) days after the start

of construction by a person who had no actual notice of the issuance of the permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the zoning administrator to the board of zoning appeals.

- (3) *Special use permits.* Upon application, the board of zoning appeals shall exercise the jurisdiction and authority to grant use permits as authorized in this chapter. The special use permits shall be processed in accordance with the procedures, standard and limitations contained in Section 10-54(3) and other applicable law. No special use shall be authorized except after notice and hearing as required by section 15.2-2204 of the Code of Virginia, 1950, as amended.