

MONTGOMERY COUNTY PLANNING COMMISSION

November 10, 2010 @ 7:00 P.M.

Multi-Purpose Room #2, Government Center

AGENDA

CALL TO ORDER:

DETERMINATION OF A QUORUM:

APPROVAL OF AGENDA:

PUBLIC ADDRESS:

PUBLIC HEARING:

1. An ordinance amending Chapter 10 entitled Zoning, Section 10-41 of the Code of the County of Montgomery, Virginia by allowing a temporary family health care structure as defined by Section 15.2-2292.1 of the Code of Virginia as a permitted accessory structure on any property zoned for a single family detached dwelling owned or occupied by a caregiver as his or her residence.
 - a. Staff Presentation (Dari Jenkins)
 - b. Public Comment
 - c. Discussion/Action
2. An ordinance amending Chapter 10 entitled Zoning, Section 10-41 of the Code of the County of Montgomery, Virginia by defining what parking uses are permitted as an accessory use and what parking uses are only permitted by special use permit in community and general business zoning districts
 - a. Staff Presentation (Dari Jenkins)
 - b. Public Comment
 - c. Discussion/Action
3. Request by **Bryan J. Katz & Katie R. Katz** for a special use permit on 1.653 acres in Community Business (CB) zoning district, with possible conditions, to allow parking of commercial vehicles over five (5) tons. The property is located 3653 Peppers Ferry Road; identified as Tax Parcel No. 064-A-92, (Account No. 002869) in the Riner Magisterial District (District B). The property currently lies in an area designated as Village Expansion in the 2025 Comprehensive Plan and further described as Mixed Use within the Belview Village Plan.
 - a. Staff Presentation (Jamie MacLean)
 - b. Applicant Presentation
 - c. Public Comment
 - d. Discussion/Action
4. A request by **B&C Investors, LLC** for a Special Use Permit (SUP) on approximately 1.84 acres in a General Business (GB) zoning district to allow a contractor's office and storage yard. The property is located at 3913 South Main Street, and is identified as Tax Parcel No(s). 67-A-160A (Acct Nos. 024322), in the Shawsville Magisterial District (District B). The property currently lies in an area designated as Urban Expansion in the 2025 Comprehensive Plan.
 - a. Staff Presentation (Jamie MacLean)
 - b. Applicant Presentation
 - c. Public Comment
 - d. Discussion/Action

5. **Montgomery County Planning Commission** request for a Comprehensive Plan amendment to change the policy map designation of approximately 63 acres immediately adjacent Ryan Road (Private) from Village Low Density Residential in the Shawsville Village plan to Resource Stewardship for parcel(s) located at 382 Ryan Road also identified as a portion of Tax Parcel No. 071-A-21 (Account No. 016478); Tax Parcel 071-A-43 (Account No. 070209) and Tax Parcel 071-A-29 (Account No. 016475), in the Shawsville Magisterial District.
 - a. Staff Presentation (Jamie MacLean)
 - b. Public Comment
 - c. Discussion/Action

OLD BUSINESS:

1. An ordinance amending Chapter 10 Entitled Zoning, Section 10-37 of the Code of the County of Montgomery, Virginia by amending the Flood Damage Prevention Overlay to modify the language of the ordinance as it relates to modification, alteration, repair, reconstruction or improvement of any kind to existing structures located in any floodplain areas to an extent or amount less than fifty (50) percent of its market value. **(TABLED 10/20/10)**
 - a. Staff Presentation (Dari Jenkins)
 - b. Discussion/Action

NEW BUSINESS:

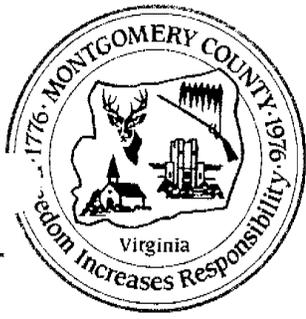
MEETING ADJOURNED:

UPCOMING MEETINGS:

November 22, 2010 Board of Supervisors & Planning Commission Joint Meeting (5:30 pm)
Planning Commission Regular Meeting (7:00 pm)

December 8, 2010 Planning Commission Public Hearing (7:00 pm)

December 15, 2010 Planning Commission Site Visit (to be determined)
Planning Commission Regular Meeting (7:00 pm) (Tentative)



MONTGOMERY COUNTY DEPARTMENT OF
PLANNING & GIS SERVICES

PLANNING
GIS & MAPPING

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

MEMORANDUM

TO: Bryan Rice, Chair
Montgomery County Planning Commission

FROM: Dari S. Jenkins, CZO *DJ*
Planning & Zoning Administrator

DATE: November 3, 2010

SUBJ: Proposed Zoning Ordinance Revision
Section 10-41(2A); Temporary Family Health Care Structures

After reviewing recent amendments of the Code of Virginia, specifically *Section 15.2-2292.1, Zoning provisions for temporary family health care structures*, the County Attorney has prepared an amendment to County code to provide for the installation of "temporary family health care structures". Per the state requirements, these structures shall be allowed within any zoning district allowing single family detached dwellings and shall not require a special use permit for the use.

Attached is a copy of the proposed amendment in ordinance form for review.

DJ

Attachment: Proposed Revisions to Section 10-41(2A)
Code of Virginia, Section 15.2-2292.1

AN ORDINANCE AMENDING CHAPTER 10 ENTITLED ZONING, SECTION 10-41
OF THE CODE OF COUNTY OF MONTGOMERY, VIRGINIA
BY ALLOWING A TEMPORARY FAMILY HEALTH CARE STRUCTURE
AS DEFINED BY SECTION 15.2-2292.1 OF THE CODE OF VIRGINIA
AS A PERMITTED ACCESSORY STRUCTURE ON ANY PROPERTY
ZONED FOR A SINGLE FAMILY DETACHED DWELLING OWNED OR OCCUPIED
BY A CAREGIVER AS HIS OR HER RESIDENCE

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

(2A) Temporary Family Health Care Structures.

Notwithstanding any other provision one temporary family health care structure, as a permitted accessory 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. The temporary family health care structure (the structure) shall be limited to one (1) occupant who shall be the mentally or physically impaired person.
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 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) days after the mentally or physically impaired person is no longer receiving 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 Code of Virginia) that is primarily assembled at a location other than its site of installation.

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§ 15.2-2292.1. Zoning provisions for temporary family health care structures.

A. Zoning ordinances for all purposes shall consider temporary family health care structures (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver as his residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings. Such structures shall not require a special use permit or be subjected to any other local requirements beyond those imposed upon other authorized accessory structures, except as otherwise provided in this section. Such structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure. Only one family health care structure shall be allowed on a lot or parcel of land.

B. For purposes of this section:

"Caregiver" means an adult who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he is caring.

"Mentally or physically impaired person" means a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in § [63.2-2200](#), as certified in a writing provided by a physician licensed by the Commonwealth.

"Temporary family health care structure" means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§ [36-70](#) et seq.) and the Uniform Statewide Building Code (§ [36-97](#) et seq.). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

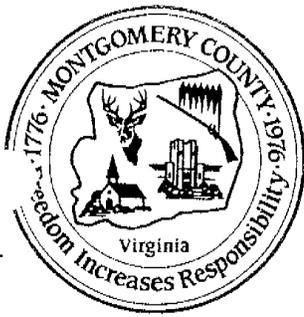
C. Any person proposing to install a temporary family health care structure shall first obtain a permit from the local governing body, for which the locality may charge a fee of up to \$100. The locality may not withhold such permit if the applicant provides sufficient proof of compliance with this section. The locality may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. Such evidence may involve the inspection by the locality of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.

D. Any temporary family health care structure installed pursuant to this section may 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.

E. No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

F. Any temporary family health care structure installed pursuant to this section shall be removed within 30 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.

G. The local governing body, or the zoning administrator on its behalf, may revoke the permit granted pursuant to subsection C if the permit holder violates any provision of this section. Additionally, the local governing body may seek injunctive relief or other appropriate actions or proceedings in the circuit court of that locality to ensure compliance with this section. The zoning administrator is vested with all necessary authority on behalf of the governing body of the locality to ensure compliance with this section.



MONTGOMERY COUNTY DEPARTMENT OF
PLANNING & GIS SERVICES

PLANNING
GIS & MAPPING

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

MEMORANDUM

TO: Bryan Rice, Chair
Montgomery County Planning Commission

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

DATE: November 3, 2010

SUBJ: Proposed Zoning Ordinance Revision
Section 10-41(1)(c); Parking Uses and Structures

Per direction of the Planning Commission pursuant to the Katz rezoning request heard by the Commission on October 13, 2010, staff has worked with the County Attorney to draft a proposed amendment to Section 10-41(1)(c); Parking Uses and Structures. There appears to be no current language in the ordinance to provide the opportunity for parking and/or storage of commercial vehicles other than in an approved truck terminal. The proposed amendment will now specify the types of vehicles allowed for parking on-site and the method by which they are allowed. If approved, the proposed amendment will allow parking of vehicles in the Community Business (CB) and General Business (GB) zoning districts as follows:

Permitted By Right

- Parking of personal, non-commercial vehicles driven by tenants residing on premises, employees working on site, or customers patronizing the business; and
- Parking of commercial vehicles weighing less than 5 tons GVW owned by and associated with the business.

Permitted by Special Use Permit (SUP)

- Parking or storing of commercial vehicles weighing over five (5) tons GVW; and
- Semitrailers, whether associated with the on-site business or not.

Attached is a copy of the proposed amendment in ordinance form for review.

DJ

Attachment: Proposed Revisions to Section 10-41(1)(c), Parking Uses and Structures

AN ORDINANCE AMENDING CHAPTER 10 ENTITLED ZONING, SECTION 10-41
OF THE CODE OF COUNTY OF MONTGOMERY, VIRGINIA
BY DEFINING WHAT PARKING USES ARE PERMITTED AS AN ACCESSORY USE
AND WHAT PARKING USES ARE ONLY PERMITTED BY SPECIAL USE PERMIT
IN COMMUNITY AND GENERAL BUSINESS ZONING DISTRICTS

BE IT ORDAINED, by the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning Section 10-41(1) of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

Sec. 10-41. Supplemental district regulations.

(1) *Accessory uses and structures.*

(a) Accessory uses and structures are permitted in connection with, and incidental and subordinate to a permitted principal use or structure and in compliance with all other provisions of this chapter. Accessory structures shall not exceed eighteen (18) feet in height or twelve hundred (1,200) square feet in area unless authorized by special use permit.

(b) Residential accessory uses and structures shall be limited to the following and to any other use or structure the zoning administrator determines to be similar in scope, size and impact as those listed herein, and are in compliance with all other provisions of this chapter:

1. Above ground deck.
2. Clothesline.
3. Fence or wall.
4. Freestanding air conditioning unit.
5. Parking for motor vehicles, subject to subsection (14).
6. Patio, porch, gazebo.
7. Pet houses and pens.
8. Play equipment and playhouses.
9. Private garage, carport. Maximum height and area shall be eighteen (18) feet and twelve hundred (1,200) square feet respectively unless authorized by special use permit.
10. Private greenhouse.
11. Private swimming pool.
12. Private tennis court or outdoor recreational court.
13. Radio or satellite antennas, freestanding or on roof, setback from required yards a minimum of one (1) foot for each one (1) foot in height.
14. Storage shed for personal, noncommercial use, and clearly subordinate to principal structure.

15. Studios and workshops without outdoor display for personal use, and clearly subordinate to principal structure.
16. Accessory dwellings in accord with subsection (2).
17. Solar power panels.
18. Enclosed areas devoted to collection of recyclable materials generated by the principal use.
19. Bus shelter or bus stand.

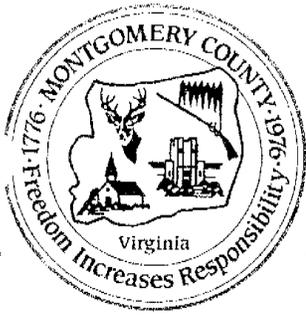
(c) Commercial and industrial accessory uses and structures shall be limited to the following and to any other use or structure the zoning administrator determines to be similar in scope, size and impact as those listed herein, and are in compliance with all other provisions of this chapter:

1. Dumpsters and dumpster pads.
2. Emergency power generators.
3. Fence or wall.
4. Freestanding air conditioning unit.
5. Parking uses and structures. **Parking uses in the Community and General Business Zoning Districts shall be limited to the personal non-commercial vehicles driven by tenants who live on premises, the employees who work on site or the customers who patronize the business and to commercial vehicles weighing less than 5 tons GVW that are owned and associated with the business. The parking or storing of commercial vehicles weighing over 5 ton GVW or semitrailers associated or not associated with the business shall only be permitted pursuant to a special use permit authorized by the Board of Supervisors.**
6. Recycling facilities, in accord with subsection (7).
7. Storage sheds, clearly subordinate to principal structure.
8. Stormwater management facilities, BMP facilities.
9. Bus shelter or bus stand.
10. Accessory living quarters for watchman, guard or custodian.
11. Sculpture, fountain, etc., clearly subordinate to principal structure.
12. Solar power panels.

(d) Use limitations:

1. Accessory structures shall be located on the same lot as the principal use or structure, except in the A-1 agricultural and C-1 conservation districts.
2. Accessory structures shall be included in the calculations for height, bulk and coverage as required by this chapter.
3. Except as otherwise permitted herein and subject to subsection (8), no accessory use or structure shall be located in a required yard.
4. No accessory use or structure shall create a nuisance or hazard.
5. No accessory use or structure shall be used as a dwelling or for lodging purposes, except for living quarters for guards or custodians as provided for in subsection (c)10. above.

6. Home occupation uses shall comply with the provisions of subsection (4).
7. Accessory uses and structures shall be operated and maintained under the same ownership as the principal use.
8. No accessory uses or structures shall be established until the principal use or structure is established except in the A-1 agricultural and C-1 conservation districts.



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 *Jamie*

DATE: November 3, 2010

RE: **Staff Analysis (SU-2010-08381)**

Request by **Bryan J. Katz & Katie R. Katz** for a special use permit on 1.653 acres in Community Business (CB) zoning district, with possible conditions, to allow parking of commercial vehicles over five (5) tons. The property is located 3653 Peppers Ferry Road; identified as Tax Parcel No. 064-A-92, (Account No. 002869) in the Riner Magisterial District (District B). The property currently lies in an area designated as Village Expansion in the 2025 Comprehensive Plan and further described as Mixed Use within the Belview Village Plan.

I. Nature of Request

The applicants, Bryan & Katie Katz, are requesting a special use permit on 1.653 acres in Community Business (CB) zoning district, with possible conditions, to allow parking of commercial vehicles over five (5) tons. The property is located at 3653 Peppers Ferry Road; identified as Tax Parcel No. 064-A-92, (Account No. 002869) in the Riner Magisterial District (District B). The property currently lies in an area designated as Village Expansion in the 2025 Comprehensive Plan and further described as Mixed Use within the Belview Village Plan.

The proposed commercial vehicle parking would be allowed by special use permit as an accessory use in the Community Business (CB) zoning district contingent upon the approval of an amendment to section 10-41 of the Code of Montgomery County. The applicant is requesting a special use permit to allow parking of up to five commercial vehicles, with a gross vehicle weight of approximately 50,000 pounds each (25 tons).

II. Background

Mr. Katz filed an application to have the subject property rezoned from Agriculture (A-1) to Community Business (C-B) on September 1, 2010. On October 13, 2010, the planning commission held a public hearing to review the rezoning request. During the October 13, 2010 meeting, the commission discussed the possibility of allowing the applicant to park large commercial buses as a permitted accessory use in a Community Business (C-B) zoning district, if the rezoning was

approved. However, according to the zoning ordinance, which is currently under review for amendment, the parking of large commercial buses requires Manufacturing (M-1) zoning; however, M-1 is not an appropriate zoning designation for parcels in the Village of Belview. Also, according to the comprehensive plan, the storage of buses is not considered compatible with the surrounding area and rural character of the Belview Village.

Therefore, to mitigate any possible negative impacts associated with the parking of the buses, the planning commission made their recommendation to rezone approximately 1.653 acres from Agricultural (A-1) to Community Business (CB) to allow administrative office for a travel agency with an apartment, subject to the following proffered condition being submitted by the property owners:

No commercial buses shall be parked or stored on the property until such time that the Montgomery County Zoning Ordinance is amended to either specifically allow the parking of large commercial buses as a permitted accessory use by right in the Community Business (CB) zoning district or when the property owner is allowed by special use permit approved by the board of supervisors.

The Board of Supervisors held a public hearing for this application on October 25, 2010, and is scheduled to act on the rezoning request on November 10, 2010.

Additionally, per direction provided by the planning commission, an ordinance amending Chapter 10 entitled Zoning, Section 10-41 of the Code of the County of Montgomery, Virginia by defining what parking uses are permitted as an accessory use and what parking uses are only permitted by special use permit in community and general business zoning districts has been advertised in accordance with section 15.2-2204 of the Code of Virginia. A public hearing on this ordinance amendment will be held on November 10, 2010.

Staff has received an application from Mr. Katz requesting a special use permit on 1.653 acres in Community Business (CB) zoning district, with possible conditions, to allow parking of commercial vehicles over five (5) tons. According to the proposed ordinance amendment and rezoning proffer, the parking or storing of commercial vehicles weighing over 5 ton shall only be permitted pursuant to a special use permit authorized by the Board of Supervisors.

III. Impacts

The impacts associated with the proposed special use permit are discussed below. The proposed special use permit, if granted, is to allow the property owners and renters to park up to five commercial vehicles weighing approximately 50,000 pounds each on the property, as a permitted accessory use.

TRANSPORTATION

The uses proposed for this site do not generate enough vehicle trips per hour to require a review under the Virginia Department of Transportation (VDOT) Chapter 527 Regulation. In a letter dated October 13, 2010, John Thompson, VDOT Land Use Engineer stated that the entrance currently

used to access the property could continue, unless the use and intensity of use of the property was changed (letter attached).

INFRASTRUCTURE

According to a letter from Mr. Bob Fronk, PSA Director, dated September 8, 2010, public sewer is provided for the subject property, and public water can be provided by a minimum eight-inch water line extension of approximately 900 feet along Peppers Ferry Road to this property from the existing water main located near the northeast property corner of 117 Garland Drive to the east of the property. Furthermore, increased sewer service can be provided for the existing building to accommodate the proposed change in use and would be billed at the difference between proposed and existing service fees. The applicant has stated there are no plans to extend public water to the property.

Concern was expressed by the PSA that an uncapped sewage cleanout was in the parking area of the subject parcel, and it appeared that waste from the buses was being discharged into the public sewer. Mr. Fronk relayed safety concerns with the potential for sewage gas leaks and the unprotected cleanout area to the applicant. Mr. Fronk stated he had been in contact with the applicant about the issues on the site. He further stated that a solution to the issue had been decided upon; however the site has not yet been inspected to verify the issue has been resolved.

IV. Comprehensive Plan

The subject parcel is located within an area designated as Mixed Use within the Belview Village in the 2025 Comprehensive Plan.

The Belview Village Plan encourages commercial development which is compatible with the surrounding area and rural community character of Belview, the vision of the village's future, and is generally consistent with the Belview Village Plan Map (BVW 1.12). Section BVW 1.3.2 states that commercial development should focus on a mixture of live-work, commercial/residential units, professional offices, and single commercial units, such as the use proposed with this application. The administrative office and apartment is consistent with the Belview Village Plan; however, an accessory use that includes storage of large commercial buses would not appear to be compatible with the surrounding area and rural community character.

When special use permit applications are considered within the Village of Belview conditions should be considered to help mitigate any potential impacts of higher intensity uses. As previously stated, while the intended use for office and apartment meets the intent of Mixed Use designation there are many site design issues such as landscaping, buffering, and parking limitations that should be considered to mitigate higher impact uses of the parking of large commercial vehicles.

V. Analysis

This request presents a challenge to balance the guidance provided by the comprehensive plan and the regulations set forth in the zoning ordinance with the request of the applicant. If the request is approved, the planning commission and board of supervisors must try to mitigate possible negative impacts associated with the proposed use to comply with the county's policies and regulations. There are several ways in which to mitigate the visual impacts associated with parking large commercial buses in the Village of Belview.

According to Montgomery County Code Section 10-41(c) (5), which is being reviewed concurrent to this special use permit application, parking uses in the Community and General Business Zoning Districts shall only be permitted pursuant to a special use permit authorized by the Board of Supervisors subject to the requirements of Chapter 10-29 and all other applicable regulations.

If the proposed zoning ordinance amendment is approved parking uses will be limited to the personal vehicles driven by those who live on the property or the employees who work on site or the customers who patronize the business and to commercial vehicles weighing less than 5 tons GVW that are owned and associated with the business.

According to the information submitted, the applicant has not proposed paving of the existing gravel lot; however section 10-44(2) (e) requires that any public off-street parking area shall be surfaced so as to provide a durable and dustless surface. At a minimum, surface treatment shall be equal to a prime and double seal.

Also, no lighting on the site has been proposed. However, attention should be given to future exterior lighting in order to preserve nighttime skies in the Village of Belview. A condition addressing lighting will provided in the staff recommendation portion of the application. Attention will be given toward lighting when site plans are submitted for this site.

The Belview Village Plan does encourage commercial development which focuses on a mixture of live-work, commercial/residential units, professional offices, and single commercial units, such as the use proposed with this application (BVW 1.3.2). However, an accessory use that includes storage of large commercial buses would not appear to be compatible with the surrounding area and rural community character.

Therefore, while it appears that the proposed special use permit could be consistent with the zoning ordinance, if the proposed ordinance amendment is approved, it does not appear to be consistent with the Belview Village Plan.

Also, the subject parcel is still currently under review for rezoning from Agriculture (A-1) to Community Business (CB), and the board of supervisors is scheduled to act on this request on November 10, 2010. If the proposed rezoning application is not approved, then the property will not be eligible to receive the special use permit for which they have concurrently applied.

All adjoining property owners were notified in compliance with the Code of Virginia and Section 10-52(3) of the Montgomery County Code. At the time this report was issued the Planning Department had not received any comments on this request. Adjacent property owners and/or

other interested parties may also be present at the public hearing to present their views on this request.

VI. Staff Recommendation

Staff preliminarily recommends denying this request as submitted by Brian and Katie Katz to allow parking of commercial vehicles over 5 tons in a Community Business (CB) district because the proposal does not appear to comply with the Belview Village Plan.

However, consideration could be given to approving the request with the following conditions in an effort to balance the request of the applicant with the policies of the Comprehensive Plan and mitigate the potential negative impact of the proposed use:

1. This special use permit authorizes parking of up to five (5) commercial vehicles in excess of five (5) tons to be parked outside the property located 3653 Peppers Ferry Road; identified as Tax Parcel No. 064-A-92, (Account No. 002869) as an accessory use.
2. The existing parking lot shall be surfaced to provide a durable and dustless surface, per section 10-44(2)(e) of the Montgomery County Code.
3. A detailed site plan in conformance with zoning ordinance requirements shall be submitted and approved by the zoning administrator and all other necessary local and state agencies prior to issuance of building permits for this development
4. Any change from the existing use of the property shall require approval and compliance with all applicable VDOT regulations.
5. Any lighting installed on the property shall be dusk to dawn, "full cut-off" type fixtures to avoid glare onto adjacent properties and shall comply with Montgomery County Zoning Ordinance 10-46(9) Performance Standards.
6. The eastern portion of the property shall have a natural vegetative buffer consistent with a type 3 buffer yard or equivalent, excluding structural screening. All other sides shall be required to have a type 2 buffer yard. Tree size shall be in compliance with zoning ordinance requirements.

Enclosures: Current Zoning Map
Aerial Photo Map
Application materials
VDOT Letter, dated October 13, 2010



**Bryan J. Katz
Request For
Special Use Permit**

Parcel ID: 002869

Legend

- Slate Roads
- Interstate Highway
- Private Roads (Named)
- Planned Highway
- Railroad
- Hydrology
- Tax Parcels
- Subject Property (Katz)



Montgomery County, Virginia
PLANNING & GIS SERVICES

THIS MAP IS PROVIDED AS A SERVICE TO THE PUBLIC AND IS NOT A CONTRACT. THE USER SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF THE INFORMATION SHOWN ON THIS MAP. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

THE INFORMATION SHOWN ON THIS MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TO BE USED AS A BASIS FOR ANY LEGAL ACTION. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE USER SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF THE INFORMATION SHOWN ON THIS MAP. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

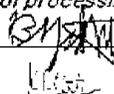


Prepared by Montgomery County, Va
Planning & GIS Services, 10/26/2010





Application to Planning Commission and Board of Supervisors

Application For: (check appropriate boxes)	
<input type="checkbox"/> Rezoning	<input type="checkbox"/> Rezoning & Special Use Permit
<input checked="" type="checkbox"/> Special Use Permit	
Owner/Applicant Information: (Use current mailing/contact information for <u>all</u> property owners. An additional sheet may be attached for multiple owners.)	
Property Owner: <u>Bryan and Katie Katz</u>	Agent: _____
Address: <u>310 Grandview Dr.</u>	Address: _____
<u>Blacksburg, VA 24060</u>	_____
Phone 1: <u>(540) 641-4175</u>	Phone 1: _____
Phone 2: <u>bkatz@vt.edu</u>	Phone 2: _____
Email: _____	Email: _____
Location of Property/ Site Address: <u>3653 Peppers Ferry Road</u>	
Legal Record of Property: Total Area: <u>1.653</u> Acres Magisterial District <u>Riner</u>	
Parcel ID: <u>002869</u>	Tax Parcel Number(s): <u>064-A92</u>
Rezoning Details: Current Zoning District: _____ Requested Zoning District: _____	
Desired Use(s): _____	
Special Use Permit: Current Zoning District <u>CB</u> Total Area/Acres: <u>1.653</u>	
Desired Use(s): <u>Parking for up to five commercial buses on the property.</u>	
Comprehensive Plan Designation: <u>Village Expansion</u>	
Traffic Impact Analysis Required: <input type="checkbox"/> Yes (payment enclosed) <input type="checkbox"/> No	
<i>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.</i>	
	_____
Property Owner(s) Signature	Date
<u>10/26/2010</u>	Agent's Signature
Date	Date

FOR OFFICE USE ONLY

Date Received: _____ Application Number: _____

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

SPECIAL USE PERMIT FOR PARKING
for property located at
3653 PEPPERS FERRY ROAD, RADFORD, VA 24141
TAX MAP 064-A-92

In accordance with the Montgomery County Virginia Zoning Ordinances, Bryan and Katie Katz, owners of property located at 3653 Peppers Ferry Road in Radford, Virginia, are requesting a Special Use Permit (SUP) for the purpose of allowing the parking of up to five motorcoaches on the property on the existing parking lot along with the owner's personally owned motorhome.

Background

The site is currently being rezoned Community Business (CB) which would allow for the use of an office and accessory apartment, but the current ordinance does not allow for the use of parking of large commercial vehicles as an accessory use. University Travel / All America Tours currently rents this property and the owners and renter wish to park up to five luxury motorcoaches on the property having a gross vehicle weight of approximately 50,000 pounds.

Comprehensive Plan Justification

The parcel is indicated as Village Expansion (PLU 1.6) and is classified as "Mixed Use" in the 2025 Comprehensive Plan Map for Montgomery County. Mixed Use as per the Belview Village Plan encourages infill development (using existing sites and structures), should be a mix of residential, commercial, and office uses, encourages live / work units, and minimizes the impact of road improvements. Our SUP proposes the use of an existing parking lot which has been in place for many years and does not require any additional buildout for serving the purpose of the owners and tenant.

Impacts of Added Use (Section 10-54(3)(g))

1. The proposed use is consistent with the comprehensive plan and the impacts are no different and in some cases significantly less than other nearby businesses.
2. The proposed uses should have no larger impact on fire safety than those of a typical office and parking lot.
3. There will be some noise generated from the site from the engines of the motorcoaches; however, the noise generated would be less than that of truck and vehicle traffic on Peppers Ferry Road.
4. There is no additional glare that would be added that is different from that of head lamps on a standard parking lot.
5. The special use will require no lighting or signing.
6. The proposed use is not different and would result in less traffic than nearby businesses including Christy's Convenience Store, Bell Oil Company, or D&E Garage among others.

7. The location of the proposed parking lot is shown in Figure 1 under "Proposed Parking Location".
8. It is estimated that screening and buffering may be more visually intense than that of the buses parked on the lot, thus screening or buffering is not proposed but may be considered by the owners.
9. The use is intended to be concurrent with the use of the office.
10. The proposed use will not result in any destruction of geographic features as the parking lot already exists.
11. The proposed use provides a service to the general public as University Travel provides charter trips for local schools and churches.
12. Traffic issues are addressed in "Transportation Impacts" in the section below.
13. There are no structures to be used as part of the proposed special use and the parking lot already exists.
14. The proposed use does not require any additional public service other than what it is already provided to the property.
15. The proposed use should have no impact on groundwater supply.
16. The proposed use should have no impact on the structural capacity of the soils as heavy construction equipment has parked on this lot over the years.
17. The proposed use will fit within VDOT requirements and thus will facilitate safe and orderly road development.
18. The proposed use will not impact environmentally sensitive land.
19. The proposed use does provide employment opportunities to the county and enlarges the tax base.
20. The goal of the proposed use is to enhance business needs for the County.
21. The proposed use does not enhance the establishment of affordable shelter opportunities.
22. No additional outdoor storage is required for the proposed use.
23. No additional open space is added for the proposed use.
24. The location of the proposed area is not in a floodplain.
25. The proposed parking lot does not utilize any non-conforming uses.
26. No fuel will be stored on the property.
27. No accessory structures are anticipated and the parking of buses is the only use that is planned for this SUP.
28. The area of use is illustrated in the figure below.
29. Buses will be operating out of the facility on a 24 hour basis; however, measures can be put into place if there are any concerns from neighbors.
30. Parking and loading spaces are not planned to be screened.
31. There are no planned security features.
32. The proposed use allows for the employment of 7 part-time employees that use the office on the property.
33. There are no additional infrastructure requirements.

34. There are no anticipated odors generated. Buses will dump sewage into the public sewer but the quantities are minimal and secure hoses are used to connect the bus with the sewer pipes. As instructed by Montgomery County, the sewer connector has a screw cap to eliminate sewer vapors and odors.
35. There is no construction traffic anticipated.

Evidence of Water Supply and Sewage Disposal

The site already has public sewer and private water available for the residence and former office already located on the premises. The intended use does not vary from that of the existing design as used by previous owners over the last several decades. The buses will use the public sewer system. We received approval from Mr. Bob Fronk of Montgomery County on August 17th to allow for the sewer lateral to be used if a cap was installed on the sewer lines and if bollards were used to protect the pipe from vehicle traffic. Both remedies were made.

Transportation Impacts

The additional traffic impact generated by the buses results in approximately 1 trip per day. An entrance already exists on the property and the intended use of the property generates less traffic than previous uses. The Virginia Department of Transportation has written a Commercial Entrance Letter dated October 13, 2010 and has determined that the existing entrance is adequate given the intended use.

Proposed Parking Location

The proposed parking location for the special use is part of an existing parking lot and is depicted in the figure below. The parking area will be constructed of a dustless surface or remain gravel and enclosed through the use of a chained in area to restrict public access while not providing a visually unappealing condition for neighbors.

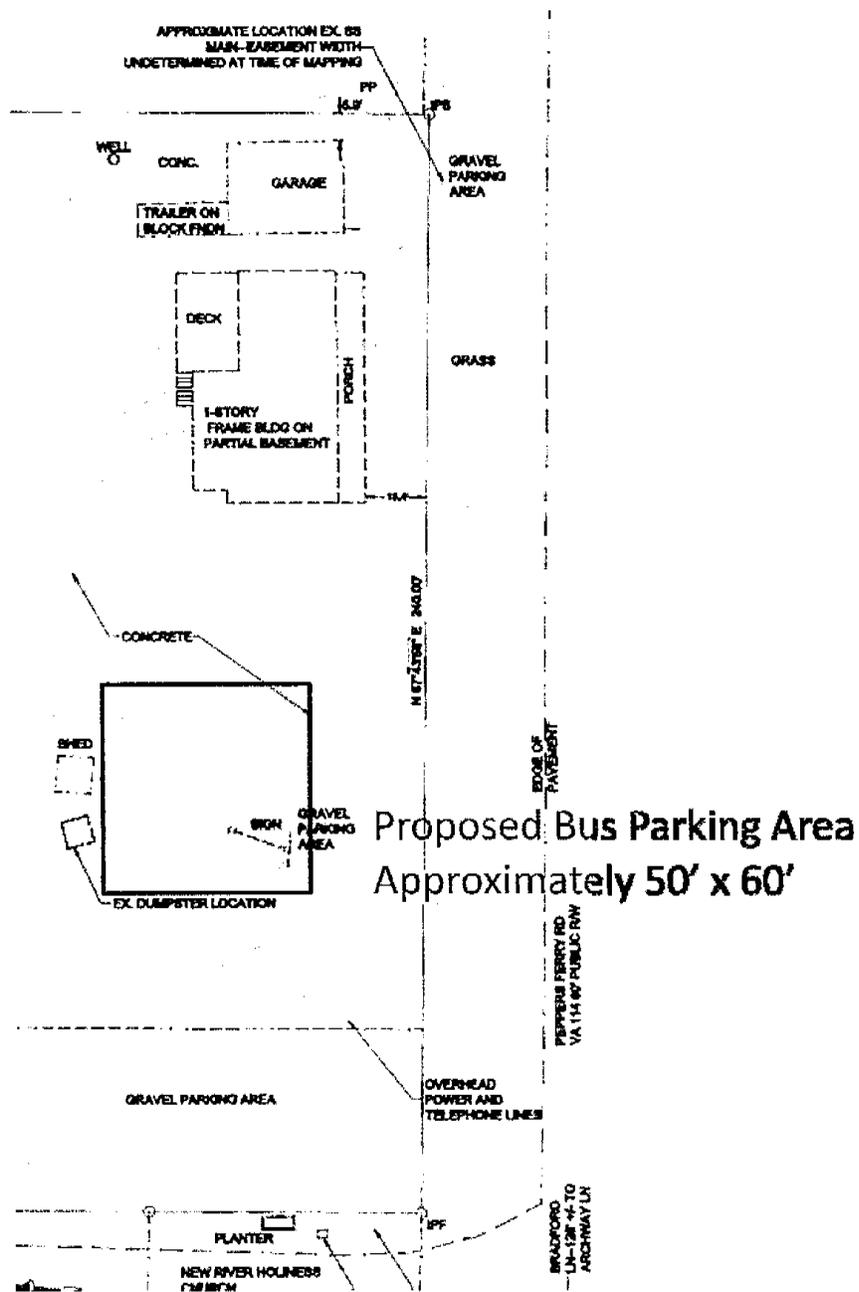


Figure 1: Proposed Bus Parking Area as Taken from Existing Site Plan (Dated 10/26/2010)



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION

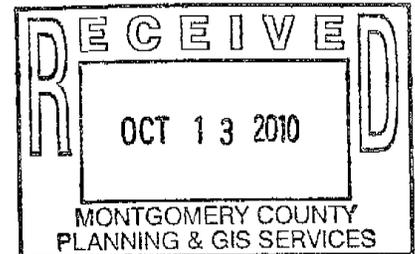
PO Box 3071

Salem VA 24153-0560

GREGORY A. WHIRLEY
COMMISSIONER

October 13, 2010

Mr. Brian Katz
310 Grandview Drive
Blacksburg, Virginia 24060



RE: COMMERCIAL ENTRANCE
Route 114, Montgomery County

Dear Mr. Katz:

The Virginia Department of Transportation does not see a problem with re-zoning the property at 3653 Pepper's Ferry Road from agricultural to community business. Please be advised that the commercial entrance located on this property may remain in its present condition unless the use changes in the future. At that time a commercial entrance may be required and depending on usage turn lanes may also be required. In a telephone conversation with John Jones of this office you indicated that the traveling public seldom uses this location, and the buses actually load personnel at an alternate location. Should any of those factors change, we will look at the entrance again. If you have any questions, please contact John Jones at (540) 381-7198.

Sincerely,


John C. Thompson, P.E.
Area Land Use Engineer

JCJ/gat

c: Dari Jenkins, County of Montgomery



MONTGOMERY COUNTY PLANNING & GIS SERVICES

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

MEMORANDUM

TO: Planning Commission
FROM: Planning Staff *Jamal*
DATE: November 3, 2010
RE: **Staff Analysis (SU-2010-08301)**

A request by **B&C Investors, LLC** for a special use permit (SUP) on approximately 1.84 acres in a General Business (GB) zoning district to allow a contractor's office and storage yard. The property is located at 3913 South Main Street, and is identified as Tax Parcel No(s). 67-A-160A (Acct Nos. 024322), in the Shawsville Magisterial District (District B). The property currently lies in an area designated as Urban Expansion in the 2025 Comprehensive Plan.

I. Nature of Request

The applicant is requesting a special use permit (SUP) on approximately 1.84 acres zoned General Business (GB) to allow a contractor's office and accessory storage.

II. Location

The property is located at 3913 South Main Street, and is identified as Tax Parcel No(s). 67-A-160A (Acct Nos. 024322), in the Shawsville Magisterial District (District B). The property currently lies in an area designated as Urban Expansion in the 2025 Comprehensive Plan. On the south, east, and west, the subject parcel is joined by properties which are zoned General Business (GB). To the north, the parcel is bordered by South Main Street (Route 460).

III. Impacts

The special use permit requested by the applicant is to allow a contractor's office and accessory storage in a General Business (GB) zoning district. Currently the site is occupied by "Cardinal Blueprinters, Inc." which is owned and operated by B&C Investors, LLC. The printing business is housed in the upper level of 3913 South Main Street and the lower level of the building is currently vacant.

The proposed use will entail the addition of a 24' x 60' temporary modular construction office (similar construction type shown in application materials) and two to six 8' x 40" storage units

for equipment storage as an accessory use related to the contracting business office. The proposed locations of the modular construction office and storage units are shown on the concept development plan submitted by the applicants. Materials are planned to be kept in the proposed storage units.

There is minimal landscaping on the site currently and no additional landscaping has been proposed to create a buffer between the proposed storage units and modular construction office and the 460 Bypass. The rear lot, where the office and storage is proposed to be located, is gravel and no changes have been proposed. The proposed hours of use for the contractor's office and storage yard are between 6:00 AM and 5:00 PM, Monday through Friday. The applicant estimates 2-10 employees for the business, and has stated that employees will meet at the job site on Virginia Tech's campus, rather than the proposed contractor's office. The office is intended to be used as a place for the project manager to work and direct operations, as well as storing needed supplies and materials, rather than as a daily meeting place for employees.

TRANSPORTATION

The uses proposed for this site do not generate enough vehicle trips per hour to require a review under the Virginia Department of Transportation (VDOT) Chapter 527 Regulation. The applicant is proposing to utilize the existing entrance to the site from National Drive. On October 19, 2010, staff met with VDOT representatives and the applicant about the special use permit request. After reviewing the request, VDOT representatives indicated that there would be no change in traffic patterns and no entrance upgrades would be required unless additional changes were made to the site. A letter from VDOT officials, dated November 2, 2010, is included with this report for your review.

INFRASTRUCTURE

The property is currently served by PSA sewer and Town of Blacksburg public water. No changes to the existing services are proposed as a result of this special use permit application.

SCHOOLS

The applicant is proposing no impact to the school system as he intends to use the property for commercial use. Therefore, no comments have been received from Montgomery County Public Schools.

IV. Comprehensive Plan

The site is located within an area designated as *Urban Expansion* on the future policy map of the comprehensive plan. The comprehensive plan defines "Urban Expansion" as areas adjacent to the Town of Blacksburg, the Town of Christiansburg and the City of Radford

that are planned for a broad range and mix of uses at urban development densities and intensities. The plan further states that "Urban Expansion" will serve as natural expansion areas for uses occurring within town and city boundaries (PLU 1.8).

Additionally, section PLU 1.8.3 states that "Urban Expansion" areas are the preferred location for new residential and non-residential development and that major employment and commercial uses should be located in Urban Expansion Areas, in proximity to major transportation corridors.

While "Urban Expansion" areas are the preferred location for new development, section PLU 1.8.4 also states that the county shall evaluate development proposals in Urban Expansion Areas to ensure that proposed development is compatible with existing communities and uses and is designed to minimize any negative impact on existing neighborhoods.

Given the site is proposed to be used in a manner consistent with other nearby uses and is compatible in scale and intensity within the existing community, the proposed use does comply with the guidance provided in the comprehensive plan. However, since the site will be visible from the 460 bypass consideration should be given to strategies to mitigate possible negative visual impacts associated with the proposed use.

V. Analysis

According to section 10-28(4)(e) of the Montgomery County Code, the subject parcel meets the criteria required to be considered for a special use permit for a contractors' office. Also, section 10-41(1) (c) (7) permits storage sheds as an allowable accessory use in a commercial zoning district.

Based on the concept development plan submitted and the topography of the lot, the contractor's office and accessory storage building will be visible from Route 460 bypass.

The proposed use appears to be consistent with the regulations set forth in the zoning ordinance as well as the guidance of the comprehensive plan. However, there are possible considerations that should be taken into account to mitigate any negative effects to the surrounding area. There is concern about outside storage of materials and equipment and therefore it may be advantageous to consider additional landscaping along the southern portion of the property to mitigate the view from the 460 bypass as a condition of the request, if the commission votes to approve this request.

Additionally, the applicant has not proposed paving of the existing gravel lot; however section 10-44(2) (e) requires that any public off-street parking area shall be surfaced so as to provide a durable and dustless surface. At a minimum, surface treatment shall be equal to a prime and double seal.

Currently, no additional lighting on the site has been proposed. There is an existing dusk to dawn light on the site to which no changes have been proposed. Attention should be given to future exterior lighting in order to preserve nighttime skies. A condition addressing lighting will be recommended in the staff recommendation portion of the application. Attention will be given toward lighting when site plans are submitted for this site.

Town of Blacksburg staff submitted a letter on October 15, 2010, stating their support for the proposal, but stating concern about possible increased traffic and visibility from the 460 bypass (letter attached).

All adjoining property owners were notified in compliance with the Code of Virginia and Section 10-52(3) of the Montgomery County Code. At the time this report was issued the Planning Department had not received any comments on this request. Adjacent property owners and/or other interested parties may also be present at the public hearing to present their views on this request.

VI. Staff Recommendation

Staff preliminarily recommends approval of this request as submitted by B&C Investors, LLC for a special use permit to allow a contractor's office and storage yard with the following conditions:

1. This special use permit authorizes use of the property for a contractor's office and accessory storage and shall substantially conform to the concept plan submitted on October 1, 2010 included with application materials.
2. A detailed site plan in conformance with zoning ordinance requirements shall be submitted and approved by the zoning administrator and all other necessary local and state agencies prior to issuance of building permits for this development.
3. Any change from the existing use of the property shall require approval and compliance with all applicable VDOT regulations.
4. No more than ten (10) employee vehicles associated with the contractor's office shall be parked on the property at any given time.
5. There shall be no outdoor storage of tools or machinery on the property.
6. Storage of all materials shall be screened from view of the Route 460 bypass. The southern portion of the property, which is visible from the Route 46 bypass, shall have a natural vegetative buffer consistent with a type 2 buffer yard requirement or equivalent as determined

by the Zoning Administrator. All other sides shall be required to have a type 1 buffer yard. Tree size shall be in compliance with zoning ordinance requirements.

7. Any lighting installed on the property shall be dusk to dawn, "full cut-off" type fixtures to avoid glare onto adjacent properties and shall comply with Montgomery County Zoning Ordinance 10-46(9) Performance Standards.

Enclosures: Current Zoning Map
Aerial Photo Map
Application Materials
Letter from VDOT, November 2, 2010
Letter from Town of Blacksburg, October 15, 2010

B&C Investors, LLC
1076 Paint Bank Road
Salem, Va. 24153
540-380-3600

September 29, 2010

Montgomery County Zoning Board:

This is a request for a Special Use Permit.
Tax Map 67-A-160A
Parcel ID 024322

The property is located at 3913 South Main St. Blacksburg, Va. 24060 and is currently zoned as General Business.

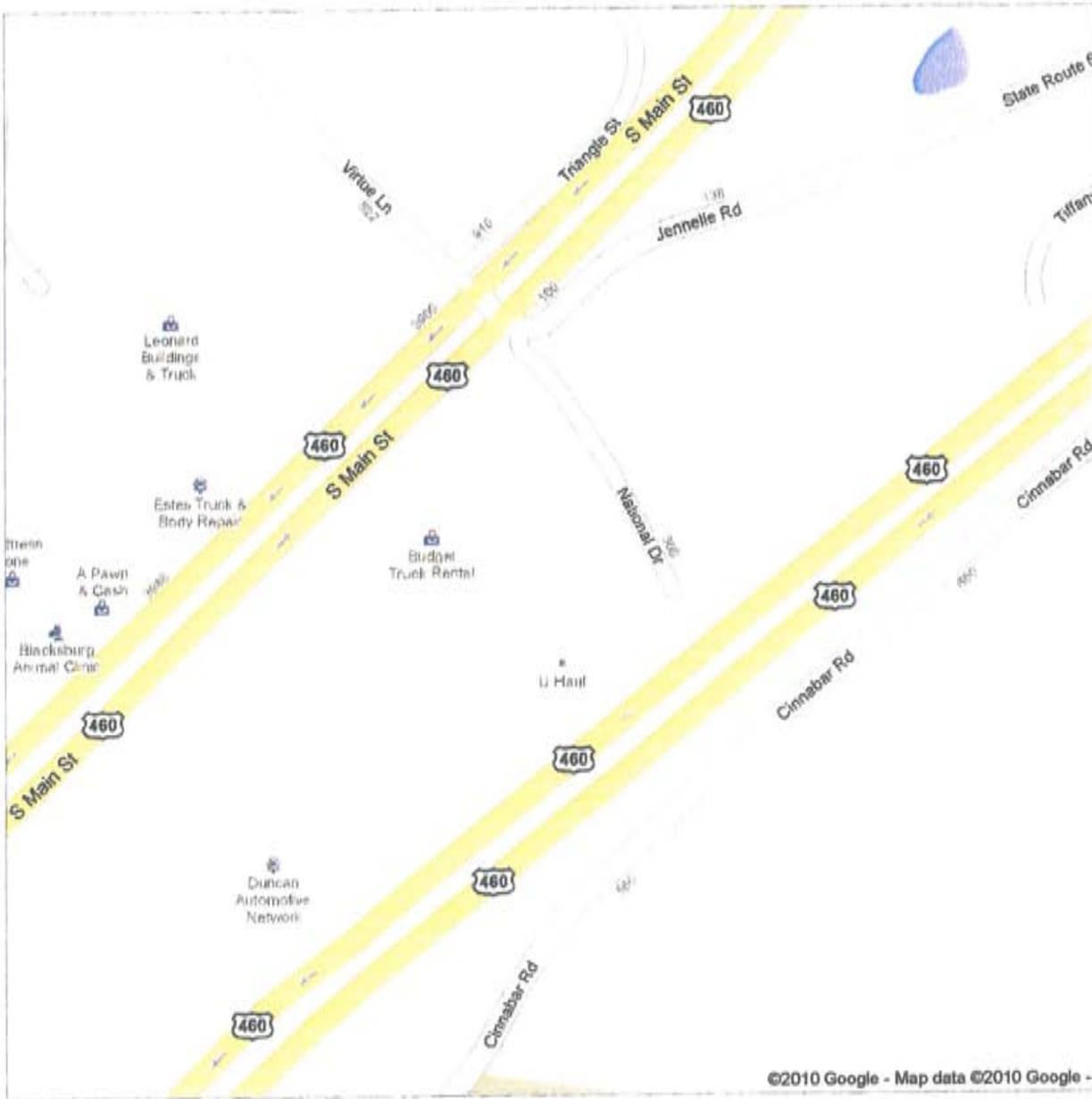
We are located in the county and would ask for consideration of the following:

We would like to rent the lower portion of our office building to a contractor at VT to use as their construction office. We would not be impacting any of our neighbors because the area is currently a gravel lot. All the utilities are already on the property. They would place a job office trailer on the property and have some storage units, but these items would not be in view of the main road because of the lower level and rear access. As you can see from the prints we would be improving our back area. We would not cause a water problem since this is a gravel lot. Our lot is slightly sloped from 460 to our building and then it drops down 12' 5". We do not expect any structural issues of the soils because it is used as a parking lot now and we will be adding more gravel for stability (if approved). There will be no negative effect on our neighbors, since this is a business area. Our neighbors have other building and a U-Haul storage lot. By approving this special use permit this will not create a traffic issue. As the map shows, there is a stop light for access to 460 and a private road for property access. This special use permit will not impact any environmentally sensitive land since we will not be changing the property as it is a gravel lot now and the contractor will not create any additional air quality issues. We at B&C Investors, LLC feel that this will be a positive change for Montgomery County tax base, because we will be getting another business in Montgomery County.

In closing we are asking for the special use permit of this property and feel it would be positive for all parties involved. Thank you for your consideration.

B&C Investors, LLC

Brian Hylton



A. Cardinal Blueprinters Inc
3913 S Main St, Blacksburg, VA -
(540) 951-4303

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3913 S Main St, Blacksburg, VA -
(540) 951-4303

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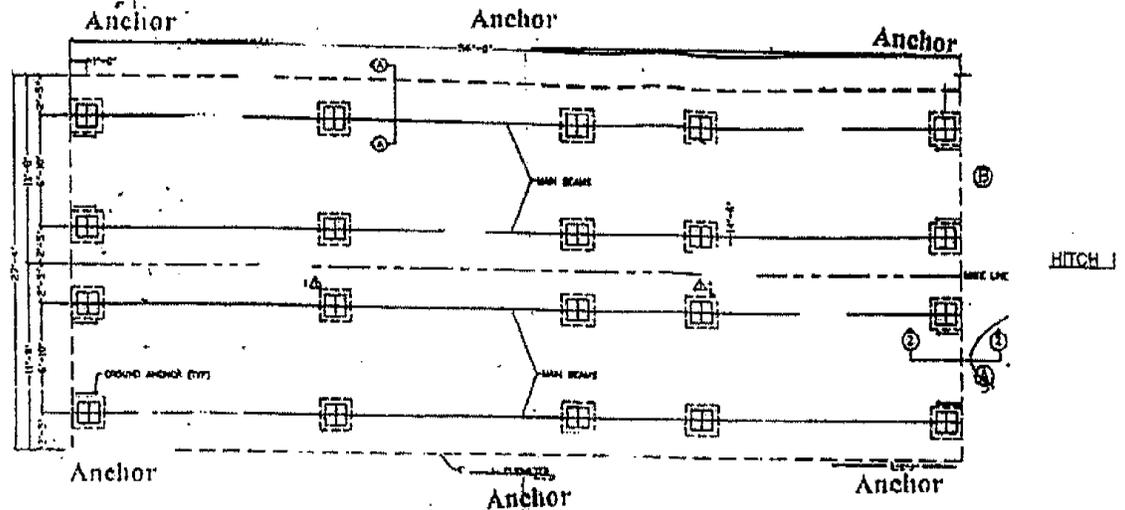
"The Value Leader in Temporary Space"

Model 2460



Recommended Anchor and Blocking Diagram

- .019 Aluminum Siding
- Block Tile Flooring
- Central HVAC
- Building Size: 24'x56'
- Skirting and Steps are Options



Piers shown represent single dry-block piers from ground up

www.actonmobile.com

Offices in PA (2), VA, NC (2), GA, FL (3), AL (2), TN, KY, IL, TX (2), OK

North

FRONT PARKING LOT

30' Easement

DRIVE

RETAINING WALL

CBI Inc.

24' X 60' Construction Trailer

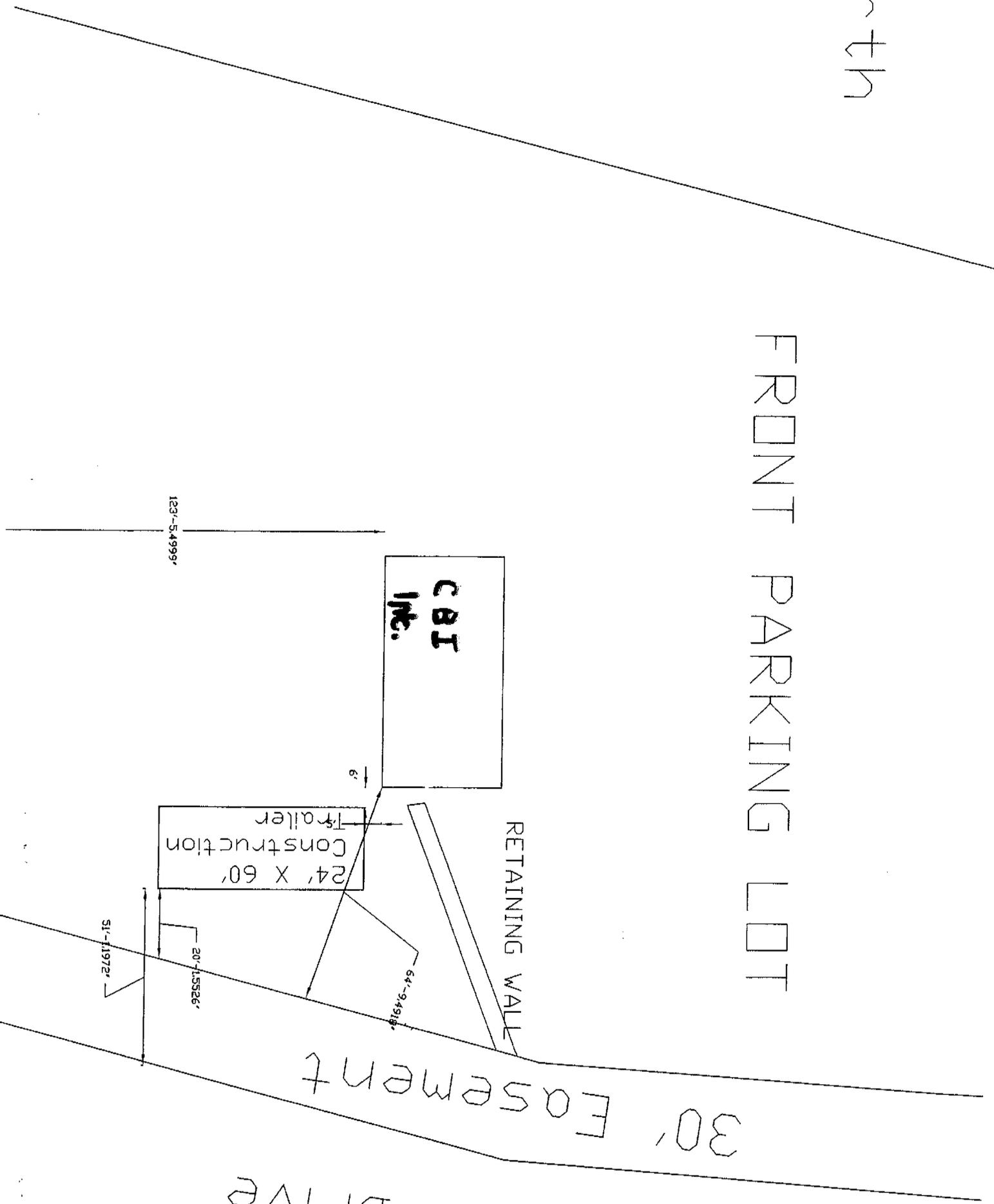
123'-5.4999'

51'-1.1972'

20'-1.5526'

54'-9.4918'

6'





Additional Rezoning Requirements

The applicant for rezoning shall provide a statement of justification to address the following items in the application materials to demonstrate what impact the proposed request will have on the County's resources and how the request complies with Montgomery County's comprehensive plan.

Section 10-54(1)(k)(4), Montgomery County Zoning Ordinance

Zoning Map Amendments. If the application is for a reclassification of property to a different zoning district classification on the Zoning Map, the applicant shall address all the following in its statement of justification or plat unless not applicable. The Planning Commission shall give reasonable consideration to the following matters:

- a) Whether the proposed zoning district classification is consistent with the Comprehensive Plan. (Addressed under "3. Comprehensive Plan Justification")
- b) Whether there are any changed or changing conditions in the area affected that make the proposed rezoning appropriate.
- c) Whether the range of uses in the proposed zoning district classification are compatible with the uses permitted on other property in the immediate vicinity.
- d) Whether adequate utility, sewer and water, transportation, school and other facilities exist or can be provided to serve the uses that would be permitted on the property if it were rezoned.
- e) The effect of the proposed rezoning on the County's ground water supply.
- f) The effect of uses allowed by the proposed rezoning on the structural capacity of the soils.
- g) The impact that the uses that would be permitted if the property were rezoned will have upon the volume of vehicular and pedestrian traffic and traffic safety in the vicinity and whether the proposed rezoning uses sufficient measures to mitigate the impact of through construction traffic on existing neighborhoods and school areas.
- h) Whether a reasonably viable economic use of the subject property exists under the current zoning.
- i) The effect of the proposed rezoning on environmentally sensitive land or natural features, wildlife habitat, vegetation, water quality and air quality.
- j) Whether the proposed rezoning encourages economic development activities in areas designated by the Comprehensive Plan and provides desirable employment and enlarges the tax base.
- k) Whether the proposed rezoning considers the needs of agriculture, industry, and businesses in future growth.
- l) Whether the proposed rezoning considers the current and future requirements of the community as to land for various purposes as determined by population and economic studies.
- m) Whether the proposed rezoning encourages the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the County.
- n) Whether the proposed rezoning considers trends of growth or changes, employment, and economic factors, the need for housing, probable future economic and population growth of the county.
- o) The effect of the proposed rezoning on the provision of moderate housing by enhancing opportunities for all qualified residents of Montgomery County.
- p) The effect of the rezoning on natural, scenic, archaeological, or historic features of significant importance.



Additional Special Use Permit Requirements

The applicant for special use permit shall provide a statement of justification to address the following items in the application materials to demonstrate what impact the proposed request will have on the County's resources and how the request complies with Montgomery County's comprehensive plan.

Section 10-54(3)(g), Montgomery County Zoning Ordinance

Issues for Consideration. In considering a Special Use Permit application, the following factors shall be given reasonable consideration. The application shall address all the following in its statement of justification or Special Use Permit plat unless not applicable, in addition to any other standards imposed by this Ordinance:

1. Whether the proposed Special Use Permit is consistent with the Comprehensive Plan (Addressed under "3. Comprehensive Plan Justification").
2. Whether the proposed Special Use Permit will adequately provide for safety from fire hazards and have effective measures of fire control.
3. The level and impact of any noise emanating from the site, including that generated by the proposed use, in relation to the uses in the immediate area.
4. The glare or light that may be generated by the proposed use in relation to uses in the immediate area.
5. The proposed location, lighting and type of signs in relation to the proposed use, uses in the area, and the sign requirements of this Ordinance.
6. The compatibility of the proposed use with other existing or proposed uses in the neighborhood, and adjacent parcels.
7. The location and area footprint with dimensions (all drawn to scale), nature and height of existing or proposed buildings, structures, walls, and fences on the site and in the neighborhood.
8. The nature and extent of existing or proposed landscaping, screening and buffering on the site and in the neighborhood.
9. The timing and phasing of the proposed development and the duration of the proposed use.
10. Whether the proposed Special Use Permit will result in the preservation or destruction, loss or damage of any topographic or physical, natural, scenic, archaeological or historic feature of significant importance.
11. Whether the proposed Special Use Permit at the specified location will contribute to or promote the welfare or convenience of the public.
12. The traffic expected to be generated by the proposed use, the adequacy of access roads and the vehicular and pedestrian circulation elements (on and off-site) of the proposed use, all in relation to the public's interest in pedestrian and vehicular safety and efficient traffic movement.
13. Whether, in the case of existing structures proposed to be converted to uses requiring a Special Use Permit, the structures meet all code requirements of Montgomery County.
14. Whether the proposed Special Use Permit will be served adequately by essential public facilities and services.
15. The effect of the proposed Special Use Permit on groundwater supply.
16. The effect of the proposed Special Use Permit on the structural capacity of the soils.
17. Whether the proposed use will facilitate orderly and safe road development and transportation.



18. The effect of the proposed Special Use Permit on environmentally sensitive land or natural features, wildlife habitat and vegetation, water quality and air quality.
19. Whether the proposed Special Use Permit use will provide desirable employment and enlarge the tax base by encouraging economic development activities consistent with the Comprehensive Plan.
20. Whether the proposed Special Use Permit considers the needs of agriculture, industry, and businesses in future growth.
21. The effect of the proposed Special Use Permit use in enhancing affordable shelter opportunities for residents of the County.
22. The location, character, and size of any outdoor storage.
23. The proposed use of open space.
24. The location of any major floodplain and steep slopes.
25. The location and use of any existing non-conforming uses and structures.
26. The location and type of any fuel and fuel storage.
27. The location and use of any anticipated accessory uses and structures.
28. The area of each use; if appropriate.
29. The proposed days/hours of operation.
30. The location and screening of parking and loading spaces and/or areas.
31. The location and nature of any proposed security features and provisions.
32. The number of employees.
33. The location of any existing and/or proposed adequate on and off-site infrastructure.
34. Any anticipated odors, which may be generated by the uses on site.
35. Whether the proposed Special Use Permit uses have sufficient measures to mitigate the impact of construction traffic on existing neighborhoods and school areas.

B & C Investors, LLC
1076 Paint Bank Road
Salem, Va. 24153

Property located at:
3913 South Main Street
Blacksburg, Va. 24060

Special Use Requirements answers

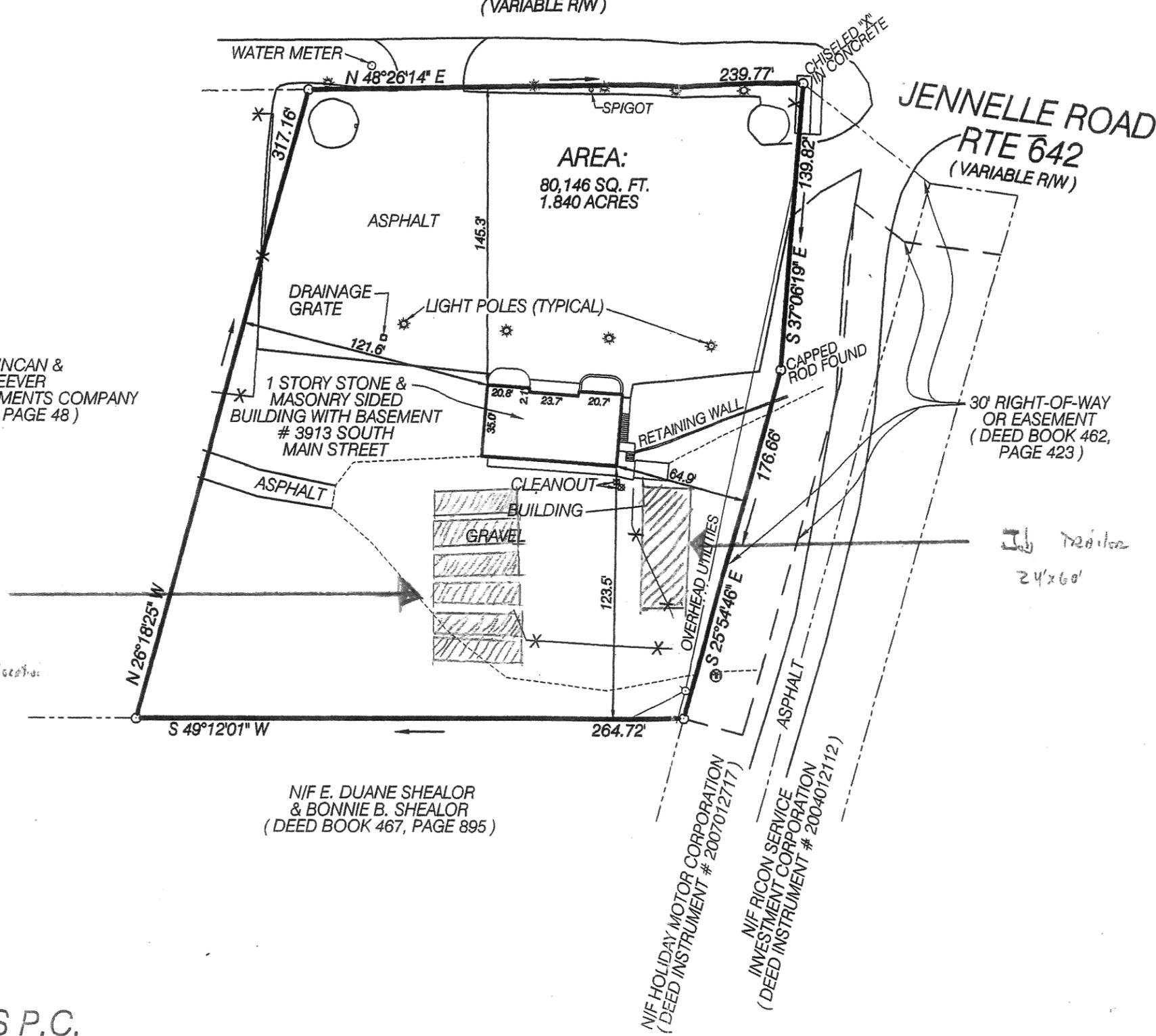
1. My proposal is constant with the comprehensive plan, because we are in urban expansion area with mixed business and services area.
2. There will be no safety issues from fire because we are asking to place storage units on an existing gravel lot.
3. The level of noise from this change would be minimal since we are in a business area, and we also have noise from the bypass.
4. There will be no glare of light since we are not adding any new lighting to the area.
5. There will be no proposed lighting change to the area.
6. The special use we are asking for is to place approximately 2 to 6 storage units on a gravel lot, and a job trailer, which is located in a general business area with similar buildings and storage units.
7. For location please refer to the plat.
8. We are not proposing any landscaping at this time, because we are not changing anything on the property, just adding several storage units and a job trailer, which is constant with our neighbors.
9. We would like to get this done very quickly, due to the fact we are not changing any property, just adding storage units and a job trailer to an existing gravel lot.
10. We do not foresee any change by receiving the special use permit, due to the fact we are not changing the land, just placing storage units on it and a job trailer.
11. The special use permit will not have a negative impact on our community.
12. We do not expect traffic to become an issue, due to the fact that it is located on a private road, with a traffic light for access to the main road.
13. We are not converting an existing structure, so this does not apply.
14. We have all utilities on site and see no problem with using utilities.
15. We do not foresee any change in ground water since it is a gravel lot now.
16. We do not foresee any structural issues arising, since it is currently a gravel lot, used for parking.
17. We are not changing any or proposing any road changes or development.
18. We do not foresee any issues effecting natural features, wildlife ect, because we are not changing anything, just adding storage units and a job trailer to an existing gravel lot.
19. By allowing the special use permit we foresee it helping Montgomery County's tax base by bringing a new business into the county.
20. I think this will help bring new businesses into the county.

21. This special use permit is not asking to enhance affordable housing so this would not apply.
22. For sizes please refer to the plat
23. For layout please refer to plat.
24. A major flood plane does not exist.
25. We do not foresee the use of any non-conforming uses and structures, because we are asking for storage units and a job trailer.
26. For location of structures please refer to plat.
27. There will be no accessory uses, we are asking for the placement of some storage units and a job trailer.
28. The area of use does not apply.
29. The contractor hours will be 6:00am till 5:00pm which located in a business area; these will not effect and neighbors.
30. The proposed parking will be screened by existing trees from 460 and will be contrast with other businesses viewed from the by pass.
31. We currently have a dust to dawn light for security, which will remain in place.
32. The number of employees my vary from 2 to 10
33. For proposed structure please refer to the plat.
34. There will be no odors generated from this change.
35. There will be no impact to neighborhood or schools because this is located in a business area, and no neighborhoods or schools exist.

SOUTH MAIN STREET - RTE 460 BUSINESS
(VARIABLE R/W)

NOTES

1. SUBJECT PROPERTY LIES WITHIN A ZONE UNSHADED "X", PER FLOOD INSURANCE RATE MAP NUMBER 51121C0141C, DATED SEPTEMBER 25, 2009.
2. THIS PLAT WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT AND DOES NOT THEREFORE NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
3. THIS PROPERTY IS SUBJECT TO ALL RESERVATIONS, RESTRICTIONS, EASEMENTS AND AGREEMENTS OF RECORD TO THE EXTENT THAT THEY MAY LAWFULLY APPLY TO THE PROPERTY.
4. THIS PLAT IS BASED ON A FIELD SURVEY AND DEED RESEARCH PERFORMED ON OR PRIOR TO 21 APRIL, 2010, AND IS BASED ON MONUMENTS AND EVIDENCE FOUND IN THE FIELD.
5. ROD SET AT ALL LOT CORNERS UNLESS OTHERWISE NOTED.
6. PHYSICAL ADDRESS:
3913 SOUTH MAIN STREET
BLACKSBURG, VIRGINIA
7. UNDERGROUND UTILITIES TO STRUCTURES UNLESS OTHERWISE SHOWN.
8. REFERENCE:
JOHN B. DUNCAN & WILLIAM L. GREEVER
DBA WILLOW TREE INVESTMENTS
DEED BOOK 462, PAGE 423
TAX MAP 67-A-160A
PARCEL ID 024322

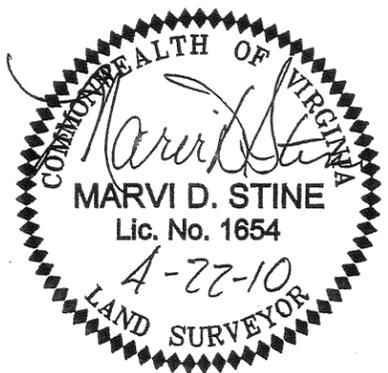


N/F JOHN B. DUNCAN &
WILLIAM L. GREEVER
DBA WILLOW TREE INVESTMENTS COMPANY
(DEED BOOK 528, PAGE 48)

Storage units
8'x40' with 1' post
between each
NOTE this is address location

N/F E. DUANE SHEALOR
& BONNIE B. SHEALOR
(DEED BOOK 467, PAGE 895)

N/F HOLIDAY MOTOR CORPORATION
(DEED INSTRUMENT # 2007012717)
N/F RICON SERVICE
INVESTMENT CORPORATION
(DEED INSTRUMENT # 2004012112)



HIGHLAND SURVEYS P.C.
TELEPHONE 540.381.0595
P.O. BOX 6364 (404 ROANOKE ST.)
CHRISTIANSBURG, VIRGINIA 24068

PLAT
SHOWING PROPERTY SURVEYED
FOR
B & C INVESTORS LLC
LOCATED IN
SHAWSVILLE MAGISTERIAL DISTRICT
MONTGOMERY COUNTY, VIRGINIA
22 APRIL, 2010 SCALE: 1" = 60'



Montgomery County Planning & GIS Services
755 Roanoke Street Suite 2A; Christiansburg, VA 24073
Phone: 540-394-2148; Fax: 540-381-8897

SITE DEVELOPMENT PLAN APPLICATION
(Please Type or Print)

Date: 9-30-10 Resubmittal: Yes No

Name of Development: _____ Project #: _____

CONTACT INFORMATION: Source Of Review Notification (Please Circle One) MAIL FAX EMAIL

Applicant: B&C INVESTORS LLC Phone: 540-380-3600 Fax: 540-380-2548

Address: 3913 South main ST Blacksburg, VA. 24060 EMAIL: _____

Owner: B&C INVESTORS LLC Phone: 540-380-3600 Fax: 540-380-2548

Address: 3913 South main ST Blacksburg, VA. 24060 EMAIL: _____

Plan Preparer: Reimer Hy Hon Phone: 540-380-3600 Fax: 540-380-2548

Address: 3913 South main ST Blacksburg, VA. 24060 Email: _____

SITE INFORMATION:

911 Property Address: 3913 South main ST, Blacksburg, VA 24060 Parcel ID: 024322

Proposed Use: SPECIAL USE (Contractor's Service Establishment) Zoning Designation: GB

Engineer's Cost Estimate for Site Improvements (used to determine bond/letter of credit amount): \$ _____

Erosion & Sediment Control:

Have E&S Plans Been Submitted? No Yes Date Submitted _____

If Yes, Has Approval Been Received? No Yes (Please Attach A Copy Of Approval)

Water & Sewer Services:

Water Facilities: PSA Blacksburg Christiansburg Well Private Other _____

Sewer Facilities: PSA Blacksburg Christiansburg Septic Private Other _____

Have Water/Sewer Plans Been Submitted? No Yes Date Submitted _____

If Yes, Has Approval Been Received? No Yes (Please Attach A Copy Of Approval)

VDOT Access:

Have Plans Been Submitted? No Yes Date Submitted _____

Traffic Impact Analysis (TIA) Included? No Yes

If Yes, Has Approval Been Received? No Yes (Please Attach A Copy Of Approval)

OFFICE USE ONLY:

ate Received: _____ Predevelopment Application #: _____

Fee Due: \$ _____ Fee Paid: Yes No



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION

PO Box 3071
Salem VA 24153-0560

GREGORY A. WHIRLEY
COMMISSIONER

November 2, 2010

Jamic Rogers MacLean, CZO
Development Planner
Montgomery County Planning and GIS
755 Roanoke Street, Suite 2A
Christiansburg, VA 24073

RE: B&C Investors, LLC
Route 460, Montgomery County

Dear Ms. MacLean:

Please be advised that the Virginia Department of Transportation does not see a problem with the request made by B&C Investors, LLC to allow a contractor's office and storage yard at 3913 South Main Street. We feel that there would be no change in traffic patterns and no upgrades would be required unless additional changes are made to the site, therefore, the commercial entrance located on this property may remain in its present condition at this time. Should there be changes in the future, we will look at the entrance again. If you have any questions, please contact John Jones at (540) 381-7198.

Sincerely,

A handwritten signature in cursive script that reads "John C. Thompson, P.E.".

John C. Thompson, P.E.
Area Land Use Engineer

JCI/gat

MEMORANDUM

To: Planning Commission

From: Kinsey O'Shea, Development Administrator 

Date: October 15, 2010

Subject: **MCR #10-0002 Montgomery County Referral: Special Use Permit for a Contractor Office and Storage Yard at 3913 South Main Street in the General Business District.**

Background

B&C Investors, LLC, proposes a special use permit to allow a contractor office and storage yard on approximately 1.84 acres in Montgomery County approximately ½ mile from the municipal boundary. The parcel is located at the southeast corner of National Drive, Jennelle Road and South Main Street. It is currently a gravel lot. The Special Use Permit application is attached.

The applicant currently operates a business at that location and is hoping to lease the lower portion of their building to a contractor for "several storage units and a job trailer." The applicant states that no landscaping or other site changes are being proposed, and that the type of structures proposed to be added is in keeping with the character of the immediate neighborhood. There is no new entrance being proposed. The applicant also states that there is a fairly significant drop from the front of the site to the rear, so it may be assumed that visibility of the rear of the site from 460 Business is limited due to the slope.

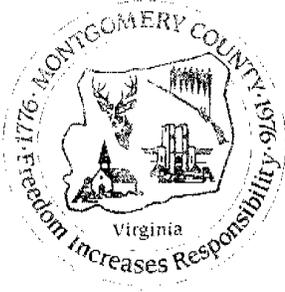
Comprehensive Plan

The Extraterritorial section of the Government chapter of the Comprehensive Plan provides general guidance for this area of the County. This area is recognized as the mid-county commercial corridor and provides a range of retail commercial offerings. One relevant Identifying Characteristics to the application is:

- Traffic congestion will continue to worsen and must be addressed regionally by the University, County, and both Towns. Future land use patterns will be a key traffic generator to be monitored. The Town should work with the County and Christiansburg to establish, maintain, and preserve gateway entrances to Blacksburg along major roads. *The County's Future Land Use designation for the subject parcels is Urban Expansion. These areas are designed to accommodate a mix of uses at higher intensities adjacent to the local urban areas. The proposed use will likely generate a consistent or lower level of traffic anticipated in this area by both the County and the Town, but because it is proposed to be a contractor yard, it may increase the amount of large-truck traffic in the area. However, as the applicant noted, there is a stoplight at Jennelle that controls traffic coming onto 460 Business.*

Conclusion

The special use permit application is consistent with the Comprehensive Plan's Extraterritorial section. Based on input from the Planning Commission, Staff will prepare a letter of recommendation to be sent to the Montgomery County Planning Commission.



MONTGOMERY COUNTY PLANNING & GIS SERVICES

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

MEMORANDUM

TO: Planning Commission

FROM: Planning Staff *Steve*

DATE: November 3, 2010

RE: **Staff Analysis (Comprehensive Plan Amendment)**

Montgomery County Planning Commission request for a Comprehensive Plan amendment to change the policy map designation of approximately 63 acres immediately adjacent Ryan Road (Private) from Low Density Residential in the Shawsville Village plan to Resource Stewardship for parcel(s) located at 382 Ryan Road also identified as a portion of Tax Parcel Nos. 071-A-21, 071-A-43, 071-A-29, 071-A-22, 071-A-23, 071-A-24, 071-A-28 (Account Nos. 016478, 070209, 016475, 016480, 016476, 016477, 016474); in the Shawsville Magisterial District.

I. Nature of Request

A request by the Montgomery County Planning Commission for a Comprehensive Plan map amendment to change the policy map designation of approximately 63 acres immediately adjacent to Ryan Road (Private) from Low Density Residential in the Shawsville Village plan to Resource Stewardship.

This application was submitted in accordance with the Comprehensive Plan Amendment process established by Ordinance FY-05-26 in April of 2005 and further explained in the Planning and Land Use Chapter (1.1.1) of the Montgomery County 2025 Comprehensive Plan.

II. Location

The property is located at 382 Ryan Road also identified as a portion of Tax Parcel No. 071-A-21, 071-A-43, 071-A-29, 071-A-22, 071-A-23, 071-A-24, 071-A-28 (Account Nos. 016478, 070209, 016475, 016480, 016476, 016477, 016474); in the Shawsville Magisterial District. The property currently lies in an area designated as Low Density Residential in the Shawsville Village Plan.

III. Background

On October 20, 2010 Mr. David Dunkenberger, of Long Hollow LLC, spoke to the Planning Commission during the "Public Address" portion of the meeting. Mr. Dunkenberger explained to the commission that he had been working with planning staff and Virginia Outdoors Foundation in an attempt to preserve 467.15 acres of family-owned land by placing it in a conservation easement.

Mr. Dunkenberger stated that through discussions with planning staff he learned that a portion of his property (approximately 63 acres) was in an area designated Village Expansion area within the Village of Shawsville. The "Village Expansion" designation prohibits Montgomery County from supporting a conservation easement on the entire property. The Shawsville Village Plan defines Village Expansion areas as areas "adjacent to existing villages where appropriate new development can be accommodated while retaining the viability and character of the historic village core" (Shawsville Village Plan, Introduction).

After speaking with staff Mr. Dunkenberger was advised that properties within the villages can be considered for amendment, outside of the twice a year policy, if the request is initiated by the planning commission or board of supervisors. Mr. Dunkenberger addressed the commission to request the policy map for the Shawsville Village be reviewed for possible amendment.

Mr. Miller proposed consideration of removing the property owned by Long Hollow LLC from the Village Expansion area so that it may be entered into a conservation easement. Mr. Miller urged that the request be included on the November agenda, and made motion to advertise and schedule a public hearing. The motion was seconded and carried by a vote of 9-0.

IV. Analysis

A portion of the subject parcels, approximately 63 acres, is included within the "Village Expansion" area in the Shawsville Village Plan. This portion of property is projected to accommodate low density residential, while the remainder of the property has been designated "Resource Stewardship".

The southern portion of the property is in close proximity to both Roanoke Road (Rt. 11/460) as well as Interstate I-81. The property is also served by public water and sewer service. The property's proximity to arterial roads and public utilities are few of the reasons that the southern portion of the property was included in the "Village Expansion" area for the Village of Shawsville when the plan was drafted in June 2007.

During the planning process for the Shawsville Village Plan citizens were asked to consider where additional residential development could be accommodated in the Shawsville area. It was also challenging to find parcels to accommodate growth because much of the Shawsville area is in the floodplain. Although Mr. Dunkenberger's family property was in close proximity to arterial roads, had access to utilities, and was not in

the flood plain the committee felt that a portion of the subject parcel should be included, but not the entire 467.15 acre parcel. In this case parcel lines could not be followed to create a division between "Village Expansion" and "Resource Stewardship", therefore citizen focus groups suggested following an old fence line for the division.

Although the property has potential to accommodate future growth, it could also be designated as Resource Stewardship and still maintain compliance with the guidance provided by the Shawsville Village Plan.

Section SVP 1.3 of the Shawsville Village Plan encourages the maintenance of the rural character of the Village of Shawsville. The proposed conservation easement could accomplish the aforementioned goal. The subject property is bordered by lands designated as Resource Stewardship to the north, east, and west. The property also adjoins a 380 acre conservation easement on the northeast side of the property as well as Agricultural and Forestal District #9 on the north and east sides of the property. The subject tracts are also currently used as working farm and forest lands, and according to the Virginia Outdoors Foundation, contain approximately 100 acres of "Prime Soils" and "Soils of Statewide Importance".

Additionally, SVP 6.2 encourages the preservation of a natural riparian "buffer strip" adjacent to floodplain areas and setback buffers from Karst sinkholes, in order to protect and enhance water quality and to maintain wildlife habitat areas adjacent to stream corridors. As a condition of the proposed conservation easement agreement, the property owners would be required to maintain a 35 foot buffer strip along each edge of intermittent streams on the property. The southern portion of the property is also within 700' of a FEMA flood way, zone AE, and the additional riparian buffer will protect water quality in the area. The subject property also contains steep slopes in excess of 15% on much of the property, on which development should be limited to minimize erosion, downstream flooding and pollution, according to section SVP 6.4.

V. Staff Recommendations

Under the Comprehensive Plan amendment guidelines, Montgomery County has established four primary criteria for granting an amendment to the existing plan:

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

Under the criteria established by the County, this request fits under criteria #4.

While the conditions surrounding the property have not changed substantially, there may be potential to accomplish goals pertaining to preservation of environmental resources outlined in section SVP 6.0 "Environmental Resources" in the Shawsville Village Plan.

Staff preliminarily recommends approving this request by Montgomery County Planning Commission to change the policy map designation of approximately 63 acres immediately adjacent to Ryan Road (Private) from Low Density Residential in the Shawsville Village plan to Resource Stewardship to allow the property owner to place the entire property in a conservation easement.

At the time this report was issued the Planning Department had not received any comments on this request. 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: Topographical/Aerial Map
Village Land Use Map
Application Materials



Long Hollow LLC
 (Tom Dunkenberger Jr)
 Request Comprehensive Plan
 Amendment Change

Request Change From
 Low Density Residential
 to
 Resource Stewardship

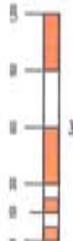
Comprehensive Plan Amendment Change
 Amendment Change
 Change in Resource Stewardship

Legend

- Slate Roads
- Interstate Highway
- Private Roads
- Planned Highway
- Railroad
- Hydrology
- † Cemeteries
- Dunkenberger Parcels
- Tax Parcels
- 10 Ft Contours

(Slope Source - CGT, Va Tech)

- Parcel ID(s):** 016478
 070209
 016475
 016480
 016476
 016477
 016474





**Long Hollow LLC
(Tom Dankenberger Jr)
Request Comprehensive Plan
Amendment Change**

Request Change From
Low Density Residential
to
Resource Stewardship

Comprehensive Plan Amendment Change
 [Symbol] Comprehensive Parcel
 [Symbol] Amendment Change
 [Symbol] Change in Resource Stewardship

- Legend**
- State Roads
 - Interstate Highway
 - Private Roads
 - Planned Highway
 - Railroad
 - Hydrology
 - Comunities
 - Tax Parcels
 - Residential Transition
 - Resource Stewardship
 - Rural
 - Urban Expansion
 - Village Expansion
 - Low Density Residential
 - Medium Density Residential
 - High Density Residential
 - Traditional Neighborhood Design (TND)
 - Mixed Use
 - Civic
 - Open Space
 - Right of Way

Parcel ID(s): 016478
070209
016475
016480
016476
016477
016474



Long Hollow, LLC's Request to Remove 63.1 acres of
Land in Hawesville from "Village Expansion" Designation

- Long Hollow, LLC, a Virginia Limited Liability Company, was formed for the purpose of consolidating land located in the western portion of Hawesville, Va., and owned by Mrs. N. W. Ryan, Jr., under a LLC structure for the purpose of transferring partial ownership to her children and grandchildren. The land, as identified by Montgomery County VA Map Numbers 071-A-21, 071-A-22, 071-A-23, 071-A-24, 071-A-28, 071-A-29, and Parcel ID Numbers 016478, 016480, 016476, 016477, 016474, 016475, contains approximately 467.151 acres.

- Much of this land has been owned by the family for generations, and it has been used primarily as farm land, although several cabins/small houses and farm structures have been erected on the land, as well as two "recreational" ponds. The family desires to preserve this land for future generations and desires to enter into a deed of gift of easement between Long Hollow, LLC and the Virginia Outdoors Foundation, placing approximately 466.90 acres of the land under conservation easement.

- When discussing with the Virginia Outdoors Foundation the proposal to place the above mentioned acreage under conservation easement, it came to our attention that all of parcel 71-A-29 (13.1 acres) is designated as Village Expansion, as is approximately 50 acres of Parcel 71-A-21. In order for the Virginia Outdoors Foundation to accept the proposed deed of gift to place the 466.90 acres of land under conservation easement, they will require that the 63.1 acres currently designated by Montgomery County as "Village Expansion" area be removed from such status.

- The purpose of our request is to ask Montgomery County to specifically remove all land as defined by Parcel 71-A-29 and 71-A-21 which is currently designated as Village Expansion from such designation. Our preference would be for this action to take place prior to December 31, 2010, so that Long Hollow LLC can proceed with the aforementioned deed of gift and it can be recorded in this calendar year.

Comprehensive Plan Amendment Application

Please complete all sections of this application.

Applicant Information:

Property Owner: Long Hollow LLC Agent: Thomas M. Dunkerberger Jr. Pres.
 Address: 2540 High Meadow Lane Address: 2540 High Meadow Lane
Salem VA 24153 (Property is in Shawsville) Salem VA 24153
 Phone: 540 375 4648(H) 540 983 4904(M) Phone: 540 375-4648 (H) 540 983 4904 (M)
 Cell Phone: 540 761-6888 Cell Phone: 540 761-6888
 Email: thomas.m.dunkerberger_jr@mssb.com Email: thomas.m.dunkerberger_jr@mssb.com

Property Information:

Property Address: 467.151 Acres located in Montgomery County, VA, near Shawsville, fronting on State Route 822.
 Tax Map Number: 71-A-21, 71-A-22, 71-A-23 Parcel ID: 016478, 016480, 016476, 016477, 016474, 016475
 Deed Book: 71-A-24, 71-A-28, 71-A-21 Page: _____
 Current Comprehensive Plan Designation: 63.1 Acres designated as Village Expansion
 Proposed Comprehensive Plan Designation: Remove 63.1 Acres from Village Expansion Designation
 Current Use of Property: Farming / Recreation - Family
 Proposed Use of Property: Same - Put Land under land preservation easement.

Application Attachments:

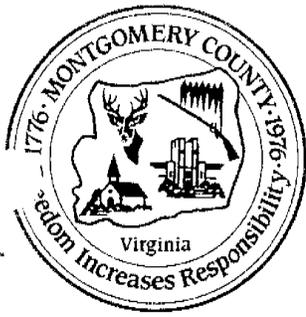
- 1) Completed application form;
- 2) Letter of justification, including specific plan citations;
- 3) Traffic Impact Study (per VDOT 527 Regulations, when applicable);
- 4) Plat of property or properties;
- 5) Map showing property and surrounding parcels;
- 6) Preliminary concept planning illustrating owner's intention for the property.
- 7) \$400.00 Application Fee
- 8) 25 Copies of all application materials.

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

Thomas M. Dunkerberger Jr. Pres 10/30/10
 Property Owner's Signature Long Hollow LLC Date Agent's Signature Long Hollow LLC Date

FOR OFFICE USE ONLY

DATE RECEIVED: _____ FEE PAID: _____ REVIEWED BY: _____
 APPLICATION COMPLETE APPLICATION INCOMPLETE



MONTGOMERY COUNTY DEPARTMENT OF
PLANNING & GIS SERVICES

PLANNING
GIS & MAPPING

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

MEMORANDUM

TO: Bryan Rice, Chair
Montgomery County Planning Commission

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

DATE: November 3, 2010

SUBJ: Proposed Zoning Ordinance Revision
Section 10-37; Flood Damage Prevention Overlay

As the section is currently written, anyone making an addition to a structure located in the floodplain to an amount of less than 50% of its market value would be allowed to construct the addition without meeting any regulation for "elevation of the addition". This means that during a flood event, it is likely the new addition will be flooded right along with the remainder of the house. Department of Conservation and Recreation (DCR) staff supports the local staff suggestion that the "proposed addition" should be elevated to at least one (1) ft. above the base flood elevation. Requiring the elevation of the addition would keep all new construction in the floodplain at least one (1) ft. above the base flood elevation. Item 3 of the section already requires "modifications, alterations, repair, reconstruction or improvement" to a structure to an amount of 50% or more of its market value to have the entire structure elevated and meet all requirements of the chapter.

During the October 20, 2010 Planning Commission meeting, the proposed amendment to Section 10-37 was tabled to allow staff to gather additional information related to the affects of the proposed amendment on Montgomery County citizens. Specifically, the Commission was interested in knowing how the insurance agents felt about the proposal and how flood insurance premiums might be impacted.

Staff contacted eight (8) insurance agencies listed with advertisements in the New River Telephone Directory. Two of the eight companies contacted indicated they chose not to write flood insurance policies. One (1) agent said that his personal opinion is that "the homeowner should not be required to elevate the addition because they have not changed their risk or potential for loss". Five (5) agents indicated that as long as any part of the structure (sometimes, any part of the property) is located within the floodplain there should be no difference in the premium. The flood insurance rate is determined using the lowest elevation of the structure. Two (2) of the five (5) agents indicated they would like to talk with their underwriter to determine if there were other concerns; however, staff has not yet received the results.

Staff has emailed and placed telephone calls to Charley Banks, Floodplain Engineer, Department of Conservation and Recreation, for input about the possibility of adding language that would require no increase in the base flood elevation even if the improvements are less that 50% of its market value. Staff expects to have information from Mr. Banks to share with the Commission during the November meeting.

DJ

Attachment: Proposed Revisions to Section 10-37; October 13, 2010

Proposed Revisions to Section 10-37; October 13, 2010

(Revisions are marked in *italics and underline*)

Sec. 10-37. Flood damage prevention overlay.

Article I--General Provisions

Section 1.1 *Purpose.* These provisions are created to regulate and restrict land use in areas which are subject to severe periodic inundation, in such a manner as to: (1) prevent the loss of life and property, (2) comply with federal and state laws and regulations that address the need for floodplain management and regulation, (3) qualify Montgomery County residents for the insurance and subsidies provided by the National Flood Insurance Program, (4) conserve the natural state of watercourses and watersheds, and minimize the damaging effects which development has on drainage conditions, pollution of streams, and other environmental impacts on water resources, (5) reduce the disruption of commerce and governmental services, (6) reduce the extraordinary and unnecessary expenditure of public funds for flood protection, rescue and relief, and (7) minimize the impairment of the tax base by:

- (a) Regulating uses, activities and development which, alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies;
- (b) Restricting or prohibiting certain uses, activities and development from locating within districts subject to flooding;
- (c) Requiring all those uses, activities and developments that do occur in floodprone districts to be protected and/or floodproofed against flooding and flood damage;
- (d) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

Section 1.2 *Authority.* Authority for these provisions includes:

- (a) Flood Damage Reduction Act, Code of Virginia, § 10.1-600 et seq.
- (b) Planning, Subdivision of Land and Zoning, Code of Virginia, Title 15.2, Chapter 22.
- (c) Soil Conservation Districts Law, Code of Virginia, § 10.1-506 et seq.
- (d) Erosion and Sediment Control Act, Code of Virginia, § 10.1-560 et seq.
- (e) National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq.

Section 1.3 *Compliance and liability.*

(a) No land shall hereafter be developed, and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this article and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this article.

(b) The degree of flood protection sought by the provisions of this article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damages.

(c) This article shall not create liability on the part of Montgomery County or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

Proposed Revisions to Section 10-37; October 13, 2010

(Revisions are marked in *italics and underline*)

(d) Records of actions associated with administering this ordinance shall be kept on file and maintained by the zoning administrator.

Section 1.4 *Qualifying/regulated lands.*

(a) These provisions shall apply to all lands within the jurisdiction of Montgomery County and identified as being in the one hundred (100)-year floodplain by FEMA (Federal Emergency Management Administration), Federal Insurance Administration.

Section 1.5 *Penalty for violations.* Any person who fails to comply with any of the requirements or provisions of this section shall be subject to the enforcement and penalties contained in section 10-52(2) of this zoning chapter.

Article II--Establishment of Floodplain Districts

Section 2.1 *Description of districts.*

(a) Basis of districts. The basis for the delineation of districts shall be the Flood Insurance Study and the Flood Insurance Rate Maps (FIRM) for Montgomery County, prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 25, 2009, as amended, which said Flood Insurance Study and Flood Insurance Rate Map are hereby incorporated and made a part of the official zoning map and this chapter. The boundaries of the special flood hazard area and floodplain districts are established as shown on the Flood Insurance Rate Map (FIRM) a copy of which shall be kept on file at the Montgomery County Planning Department offices.

1. The Floodway District is delineated, for purposes of this section, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this district are specifically defined in Table 2 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map (FIRM).

2. The Special Floodplain District shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided.

3. The Approximated Floodplain District shall be those areas identified as an A or A99 Zone on the maps accompanying the Flood Insurance Study. In these zones, no detailed flood profiles or elevations are provided, but the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Flood Plain Information Reports, U.S. Geological Survey Floodprone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the zoning administrator.

4. The Shallow Flooding District shall be those areas identified as Zone AO or AH on the Flood Insurance Rate Maps.

(b) *Overlay Concept.* The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the official zoning chapter map and as such the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions. If there is any conflict between the provisions -- requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts should apply.

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Section 2.2 *District boundary changes.* The delineation of any of the floodplain districts may be revised where natural or manmade changes have occurred and/or where more detailed studies have been conducted or undertaken by the United States Army Corps of Engineers or other qualified agency, or an individual documents the need for such changes. However, prior to any such change, written approval must be obtained from the Federal Insurance Administration and the Montgomery County Zoning Administrator must receive official notification of any such changes. Any such changes must be formally recorded on appropriate maps approved by the Federal Insurance Administration and submitted to the zoning administrator.

Section 2.3 *Submitting technical data.* A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify the Federal Insurance Administration of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

Article III--District Provisions

Section 3.1 *Permit and application requirements.*

(a) *Permit requirements.* All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this chapter and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the Montgomery County Subdivision Ordinance. Prior to the issuance of any such permit, the zoning officer shall require all applications to include compliance with all applicable state and federal laws.

(b) All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information in addition to information normally required for such applications:

1. The elevation of the base flood at the site;
2. For structures that have been elevated, the elevation of the lowest floor (including basement);
3. For structures that have been floodproofed (nonresidential only), the elevation to which the structure has been floodproofed;
4. The elevation of the one hundred (100)-year flood; and
5. Topographic information showing existing and proposed ground elevations.
6. All required information shall be recorded on an elevation certificate or floodproofing certificate approved by the zoning administrator. The certificate shall be completed by a licensed surveyor, licensed engineer, or licensed architect, and shall be recorded with the clerk of circuit court prior to the issuance of an occupancy certificate.

Section 3.2 *General standards.* In all special flood hazard areas the following provisions shall apply:

(a) New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.

(b) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movements. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

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- (c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (d) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (e) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- (h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter shall meet the requirements of "new construction" as contained in this section.
- (j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said nonconformity is not furthered, extended, or replaced.
- (k) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U.S. Corps of Engineers, the Virginia Department Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, notification of the proposal shall be given by the application to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administration.
- (l) The flood-carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

Section 3.3 *Specific standards.* In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according to Article III, Section 3.6, the following provisions shall apply:

- (a) *Residential Construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation.
- (b) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial, or nonresidential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the base flood elevation. Buildings located in all A 1-30, AE, and AH zones may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one (1) foot are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.
- (c) *Elevated buildings.* Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
1. Not be designed or used for human habitation, but shall only be used for parking of vehicles, build access, or limited storage of maintenance equipment used in connection with the premises. Access to the

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enclosed area shall be the minimum necessary to allow for parking of vehicles (garage doors) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).

2. Be constructed entirely of flood-resistant materials below the regulatory flood protection elevation;
3. Include, in Zones A, AO, AE, and A 1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwater. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - a. Provide a minimum of two (2) openings on different sides of each enclosed area subject to flooding.
 - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(d) *Manufactured homes.* All manufactured homes placed or substantially improved on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood within the floodplain district shall be placed on a permanent foundation supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and elevated and anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in accordance with the Virginia Uniform Statewide Building Code. All such mobile homes must provide an elevation certificate that conclusively demonstrates that the dwelling or structure is at least one (1) foot above the base flood elevation.

(e) *Recreational vehicles.* All recreational vehicles placed on sites must either be on the site for fewer than one hundred eighty (180) consecutive days; be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or meet all the requirements of manufactured homes in Article III, Section 3.3(d).

Section 3.4 *Standards for the Floodway District.*

(a) Encroachments including fill, new construction, substantial improvements and other development are prohibited, unless certification (with supporting technical data) by a registered professional engineer is provided to the zoning administrator demonstrating through hydrologic and hydraulic analyses that such encroachment would not result in any increase in the one hundred (100)-year flood elevation.

(b) The following uses and activities are permitted, provided that they are in compliance with the provisions of the underlying zoning district and are not prohibited by any other ordinances and provided that they do not require structures, fill, or storage of materials and equipment:

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1. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting;
2. Public and private recreational uses and activities, such as parks, play areas of a natural, permeable nature, day camps, picnic grounds, golf courses, boat launching and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, trap and skeet game ranges, and hunting and fishing areas;
3. Fisheries uses such as fish hatcheries and harvesting;
4. Stormwater management improvements associated with uses permitted by right in the overlay district;
5. Utility lines, road crossings, private drives and private access easements not resulting in an increase in the water surface elevation of the base flood affecting existing buildings and structures;
6. Temporary storage of material or equipment necessary in the construction of uses permitted by right in the overlay district;
7. Accessory residential uses, such as yard areas, gardens, play areas and loading areas;
8. Accessory industrial and commercial uses, such as yard areas, parking and loading areas, airport landing strips, etc.
9. Expansion or enlargement of existing structures and/or uses up to one hundred (100) percent of structure floor area if the effect on flood heights is fully offset by accompanying improvements that are designed by and certified by a professional engineer;
10. Repairs, restoration and maintenance, including structural repairs may be made to a nonconforming structure only when the cost of the work does not exceed fifty (50) percent of the current fair market value and the work does not increase the cubic content volume of the nonconforming structure. Cost of the land shall not be considered in when determining the fair market value of the nonconforming structure. If a nonconforming structure is damaged or destroyed, the repair or restoration work shall commence within six (6) months of the date the damage occurred and complete the repair or restoration shall be completed within twenty-four (24) months of starting construction or the nonconforming use will be deemed abandoned.

(c) The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation and encroachments standards are met.

Section 3.5 *Standards for the Special Floodplain District*. The following provisions shall apply within the Special Floodplain District:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE on the Flood Insurance Rate Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one (1) foot at any point within the County of Montgomery.

Development activities in Zones A1-30, AE, and AH, on the county's Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one (1) foot may be allowed, provided that the developer or applicant first applies - with the county's endorsement - for a conditional Flood Insurance Rate Map revision, and receives approval of the Federal Emergency Management Agency.

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Section 3.6 *Standards for approximated floodplain.* The following provisions shall apply with the Approximate Floodplain strict:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Floodprone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the county.

When such base flood elevation data is utilized, the lowest floor shall be one (1) foot above the base flood elevation. During the permitting process, the applicant/property owner shall obtain:

- 1) The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and
- 2) If the structure has been floodproofed in accordance with the requirements of this article, the elevation to which the structure has been floodproofed.

Section 3.7 *Standards for the Shallow Flooding District.* The following provisions shall apply within the Shallow Flooding District:

- (a) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two (2) feet (recommend \geq one (1) foot freeboard) above the highest adjacent grade; or,
- (b) All new construction and substantial improvements of nonresidential structures shall:
 1. Have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two (2) feet (recommend \geq one (1) foot freeboard) above the highest adjacent grade; or,
 2. Together with attendant utility and sanitary facilities be completely floodproofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (c) Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

Section 3.8 *Standards for subdivision proposals.*

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and

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(d) Base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five (5) acre whichever is the lesser.

Article IV--Variances; Factors to Be Considered

In passing upon applications for variances, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of this chapter and consider the following additional factors:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development or activity within any floodway district that will cause any increase in the one hundred (100)-year flood elevation.
2. The danger that materials may be swept onto other lands or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a waterfront location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
10. The safety of access by ordinary and emergency vehicles to the property in time of flood.
11. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
12. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
13. Such other factors which are relevant to the purposes of this article.

The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the board of zoning appeals has determined that the granting of such will not result in (1) unacceptable or prohibited increases in flood heights; (2) additional threats to public safety; (3) extraordinary public expense; and will not (4) create nuisances; (5) cause fraud on or victimization of the public; or (6) conflict with local laws or ordinances. Variances shall be issued only after the board of zoning appeals has determined that the variance will be the minimum required to provide relief and that the failure to grant the requested variance would result in hardship to the applicant.

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The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

Article VI--Existing Structures in Floodplain Areas

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions but which is not in conformity with these provisions may be continued subject to the following conditions:

1. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard emergency practices that the proposed expansion would not result in any increase in the base flood elevation.
2. Any modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC. *Any additions shall be constructed in full compliance with this chapter.*
3. The modifications, alterations, repair, reconstruction or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this chapter and shall require the entire structure to conform to the VA USBC.

Article VI--Definitions

Definitions. For the purpose of this Flood Damage Prevention Overlay Ordinance, the following words and phrases shall have the meanings respectfully ascribed to them by this section. Any word, term or phrase used in this overlay ordinance not defined below shall have the meaning ascribed to the word in section 10-61 of the zoning chapter or if not defined there then in the most recent edition of Webster's unabridged Dictionary, unless in the opinion of the zoning administrator established customs or practices of the County of Montgomery justify a different or additional meaning.

*Base flood.** The flood having a one (1) percent chance of being equaled or exceeded in any given year.

*Base flood elevation.** The Federal Emergency Management Agency designated one hundred (100)-year water surface elevation.

*Basement.** Any area of the building having its floor sub-grade (below ground level) on all sides.

*Board of zoning appeals.** The board appointed to review appeals made by individuals with regard to decisions of the zoning administrator in the interpretation of this chapter.

*Development.** Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

*Elevated building.** A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

*Encroachment.** The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

*isting manufactured home park or subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the

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installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

*Expansion to an existing manufactured home park or subdivision.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

*Flood or flooding.**

1. A general or temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters; or
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1a. of this definition.
3. Mudflows which are proximately caused by flooding as defined in paragraph (a)(2)[1b.] of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

*Floodplain or floodprone area.** Any land area susceptible to being inundated by water from any source.

Floodproofing. Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*Flood Insurance Rate Map (FIRM).** An official map of a community on which both the special hazard areas and the risk premium zones applicable to the community are delineated.

*Freeboard.** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Historic structure.** Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

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4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

*Lowest floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of Federal Code 44CFR §60.3.

*Manufactured home.** A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

*Manufactured home park or subdivision.** A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

*Manufactured home park or subdivision, New.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

*New construction.** For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

*Recreational vehicle.** A vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and,
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

*Shallow flooding area.** A special flood hazard area with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

*Special flood hazard area.** The land in the floodplain subject to a one (1) percent or greater chance of being flooded in any given year as determined in Article III, Section 3.2 of this section.

*Start of construction.** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any

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wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Structure.** For floodplain management purposes a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. Structure for insurance coverage purposes means a walled and roofed building, other than a gas or liquid storage tank that is principally above and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

*Substantial damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

*Substantial improvement.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

*Watercourse.** A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur. (Ord. No. 1999-12, §§ 3-500--3-508, 12-13-99; Ord. No. 2001-08, 6-11-01; Ord. No. 2003-09, 6-9-03; ORD-FY-10-02, . 13-09; ORD-FY-10-10, 8-24-09)

Note: * Denotes definitions to be used only for the purpose of this Flood Damage Prevention Overlay Ordinance, the words and phrases shall have the meanings respectfully ascribed to them by this section.