



## FLUVANNA COUNTY PLANNING COMMISSION

### REGULAR MEETING AGENDA

Circuit Courtroom, Fluvanna Courts Building

November 16, 2015, at 7:00 pm

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#### TAB AGENDA ITEMS

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#### 1 - CALL TO ORDER, PLEDGE OF ALLEGIANCE

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#### 2 - DIRECTOR'S REPORT

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#### 3 - PUBLIC COMMENTS #1 (3 minutes each)

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#### 4 - APPROVAL OF MINUTES

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Minutes of October 28<sup>th</sup>, 2015

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#### 5 - PUBLIC HEARINGS

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##### ZTA-15:04 – (Subdivision and Zoning Ordinance Text Updates)

AN ORDINANCE TO AMEND AND REENACT CHAPTER 22, ARTICLES 1, 2, 4, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, AND 27 OF THE FLUVANNA COUNTY CODE BY CERTAIN AMENDMENTS TO SECTIONS AND SUBSECTIONS 22-1-2, 22-2.1, 22-4-6, 22-4-9.1, 22-4-9.2, 22-4-9.4, 22-7-4, 22-7-5, 22-7-12, 22-9-2, 22-9-3, 22-10-5, 22-11-2, 22-12-9, 22-13-1, 22-13-2, 22-13-3, 22-13-4, 22-13-5, 22-13-6, 22-13-7, 22-14-8, 22-14-8.3, 22-15-4.1, 22-16-8, 22-17-1, 22-17-6, 22-17-9, 22-17-15, 22-17-16, 22-17-18, 22-18-1, 22-18-1.1, 22-18-2, 22-18-4, 22-18-5, 22-18-6, 22-18-7, 22-18-7.1, 22-21-3, 22-22, 22-23-6, 22-23-7, 22-24-3, 22-24-4, 22-25-4, 22-25-6, 22-26-4, 22-27-2, 22-27-6, 22-27-9.9, 22-27-10.2, 22-27-10.3, 22-27-10.3.A, 22-27-10.3B, AND 22-27-11.1. THEREOF, AMENDING AND REENACTING THE FLUVANNA COUNTY ZONING ORDINANCE TO CONFORM TO THE CURRENT ENABLING LEGISLATION, AS AMENDED.”

**ZTA-15:05– (Subdivision Ordinance Text Updates)**“AN ORDINANCE TO AMEND AND REENACT CHAPTER 19, ARTICLES 1, 3, 6, 7, AND 8 OF THE FLUVANNA COUNTY CODE BY CERTAIN AMENDMENTS TO SECTIONS AND SUBSECTIONS 19-1-3, 19-3-4, 19-3-5, 19-3-6, 19-3-6.3, 19-6-3, 19-7-6, 19-8-1, 19-8-4, 19-8-5, AND 19-8-7. THEREOF, AMENDING AND REENACTING THE FLUVANNA COUNTY SUBDIVISION ORDINANCE TO CONFORM TO THE CURRENT ENABLING LEGISLATION, AS AMENDED.”

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#### 6 - PRESENTATIONS

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TJPDC Updates- Will Cockrell, Director of Planning-TJPDC

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#### 7 - SITE DEVELOPMENT PLANS

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-None

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#### 8 - SUBDIVISIONS

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-None

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**9 - UNFINISHED BUSINESS**

**-CIP Discussion**

- **SUP 15:07– Raymond Goffin** - A request for a special use permit to operate an outdoor recreation facility and Small Restaurant with respect to 46.02 acres of Tax Map 18, Section A, Parcel 12. The property is currently zoned A-1 (Agricultural, General) and is located on the northern side of State Route 619 (Ruritan Lake Road) approximately one-half mile northwest of its intersection with Sclaters Ford Road. The property is located within the Cunningham Election District and is within the Rural Residential Planning Area.

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**10 - NEW BUSINESS**

- None

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**11 - PUBLIC COMMENTS #2** (3 minutes each)

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**12 - ADJOURN**

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Planning/Zoning Administrator Review

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**PLEDGE OF ALLEGIANCE**

I pledge allegiance to the flag  
Of the United States of America  
and to the Republic for which it stands,  
one nation, under God, indivisible,  
with liberty and justice for all.

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**ORDER**

1. It shall be the duty of the Chairman to maintain order and decorum at meetings. The Chairman shall speak to points of order in preference to all other members.
2. In maintaining decorum and propriety of conduct, the Chairman shall not be challenged and no debate shall be allowed until after the Chairman declares that order has been restored. In the event the Commission wishes to debate the matter of the disorder or the bringing of order; the regular business may be suspended by vote of the Commission to discuss the matter.

3. No member or citizen shall be allowed to use abusive language, excessive noise, or in any way incite persons to use such tactics. The Chairman and/or the County Planner shall be the judge of such breaches, however, the Commission may vote to overrule both.

4. When a person engages in such breaches, the Chairman shall order the person's removal from the building, or may order the person to stand silent, or may, if necessary, order the person removed from the County property.

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## **Fluvanna County Planning Commission PUBLIC HEARING RULES OF PROCEDURE**

### 1. Purpose:

The purpose of a public hearing is to receive testimony from the public on certain resolutions, ordinances or amendments prior to taking action. A hearing is not a dialog or debate. Its express purpose is to receive additional facts, comments and opinion on subject items.

### 2. Speakers:

- Speakers should approach the lectern so they may be visible and audible to the Commission.
- Each speaker should clearly state his/her name and address.
- All Comments should be directed to Commission.
- Each speaker is limited to three minutes and time may not be donated from other audience members.
- All questions should be directed to the Chairman. Members of the Commission are not expected to respond to questions, and response to questions shall be made at the Chairman's discretion. Speakers are encouraged to contact staff regarding unresolved concerns or to receive additional information.
- Speakers with questions are encouraged to contact County staff prior to the public hearing.
- Speakers should be brief and avoid repetition of previously presented comments.
- County residents and taxpayers may be given priority in speaking order.

### 3. Action:

At the conclusion of the public hearing on each item, the Chairman will close the public hearing. The Commission will proceed with its deliberations and will act on or formally postpone action on such item prior to proceeding to other agenda items. Further public comment after the public hearing has been closed generally will not be permitted.



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## COUNTY OF FLUVANNA

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*"Responsive & Responsible Government"*

P.O. Box 540 Palmyra, VA 22963 (434) 591-1910 FAX (434) 591-1911 [www.co.fluvanna.va.us](http://www.co.fluvanna.va.us)

To: Fluvanna County Planning Commission  
From: Jason Stewart, AICP  
Date: November 12, 2015  
Re: Planning Director's Report

1. Board of Supervisors Actions:

November 4, 2015:

None.

November 18, 2015:

**SUP 15:09 – Rountop Limited Partnership** - A request to amend Special Use Permit SUP 14:04 to allow for an expansion of the educational facility to 75 occupants in 6 Centre Ct., and 49 occupants in 7 Centre Ct. with respect to 6.343 acres of a portion of Tax Map 18A, Section 4, Parcel 13A. The property is zoned B-1 (Business, General) and is located on the north side of Slice Road, approximately 500 feet from its intersection with Route 600 (South Boston Road). The property is located in the Palmyra Election District and is within the Rivanna Community Planning Area.

**ZMP 15:05– Robin M. Travis** - An ordinance to amend the Fluvanna County Zoning Map with respect to 4.688 acres of Tax Map 5, Section A, Parcel 45 to rezone the same from A-1, Agricultural, General to B-1, Business, General. The affected property is located on the north side of Richmond Road (Route 250), approximately .40 miles northwest of its intersection with James Madison Highway (Route 15). The property is located in the Columbia Election District and is within the Zion Crossroads Community Planning Area.

2. Board of Zoning Appeals Actions:

*No November meeting.*

3. Technical Review Committee:

**SDP 15:17 – Paul M. Beyer** - A site development plan request to regrade the parcel to cut the property such that the soil can be relocated off site with respect to a portion of 10 to 12 acres of Tax Map 62, Section 1, Parcels 1 & 2, and 62-A-8. The property is zoned A-1, Agricultural, General and is located on the south side of State Route 656 (Bremo Road) approximately 2,000 feet southwest of its intersection with State Route 655 (West Bottom Road). The property is located in the Fork Union Election District and is within the Rural Preservation Planning Area.

**SUP 15:10 – St. Peter & Paul Catholic Church** - A request for a Special Use Permit (SUP) to allow for an educational facility with respect to a portion of 29 acres of Tax Map 18, Section A, Parcels 7 & 7A. The affected property is located on the west side of Route 53 (Thomas Jefferson Parkway), approximately 1,380 feet northwest of its intersection with Route 600 (South Boston Road). The property is located in the Cunningham Election District and is within the Rivanna Community Planning Area.

**ZMP 15:06 – Gardner Trust** - An ordinance to amend the Fluvanna County Zoning Map with respect to 13.4 acres of Tax Map 9, Section A, Parcel 9 to rezone the same from A-1, Agricultural, General to B-1, Business, General. The affected property is located on the south side of State Route 618 (Lake Monticello Road) approximately ½ mile northwest of its intersection with Ashlawn Boulevard (The Main Gate to Lake Monticello). The property is located in the Palmyra Election District and is within the Rivanna Community Planning Area.



**FLUVANNA COUNTY BUILDING INSPECTIONS  
MONTHLY BUILDING INSPECTION REPORT  
OCOTOPER 2015**

USE	Oct-14	VALUE	YTD 14	VALUE	Oct-15	VALUE	YTD 15	VALUE	Oct/Diff	VALUE	YTD	VALUE
											PERMITS	
New Homes	8	1,310,000	74	14,245,118	4	991,625	85	16,855,449	-4	(318,375)	11	2,610,331
Duplex	0	0	0	0	0	-	0	-	0	-	0	-
Single Family (Attached)	0	0	6	750,000	0	-	4	837,000	0	-	-2	87,000
Adds&Alterations	36	547,260	252	2,669,600	27	581,288	265	8,675,621	-9	34,028	13	6,006,021
Garages & Carports	1	50,000	7	433,500	0	-	13	267,500	-1	(50,000)	6	(166,000)
Accessory Buildings	1	15,000	10	137,800	0	-	8	400,839	-1	(15,000)	-2	263,039
Single Wide MH	0	0	4	113,312	0	-	4	67,488	0	-	0	(45,824)
Swimming Pools	0	0	3	63,674	0	-	5	106,200	0	-	2	42,526
Recreational Bldgs	0	0	0	-	0	-	0	-	0	-	0	-
Business Bldgs	0	0	0	-	0	-	1	1,300,000	0	-	1	1,300,000
Industrial Bldgs	0	0	0	-	0	-	0	-	0	-	0	-
Other Buildings	0	0	3	1,543,385	2	631,000	6	1,408,000	2	631,000	3	(135,385)
<b>TOTALS</b>	<b>46</b>	<b>1,922,260</b>	<b>359</b>	<b>19,956,389</b>	<b>33</b>	<b>2,203,913</b>	<b>391</b>	<b>29,918,097</b>	<b>-13</b>	<b>281,653</b>	<b>32</b>	<b>9,961,708</b>

FEES	Oct-14	PREV TOT	YTD 14	Oct-15	PREV TOT	YTD 15	DIFFERENCE	DIFFERENCE YTD
Building Permits	\$ 11,601.57	92,056.40	103,657.97	\$ 8,558.11	\$ 119,293.67	\$ 127,851.78	(3,043.46)	24,193.81
Land Disturb Permits	\$ 2,838.75	24,073.75	26,912.50	\$ 2,818.75	\$ 17,847.50	\$ 20,666.25	(20.00)	(6,246.25)
Zoning Permits/Proffers	\$ 1,350.00	43,100.00	44,450.00	\$ 1,050.00	\$ 15,700.00	\$ 16,750.00	(300.00)	(27,700.00)
<b>TOTALS</b>	<b>\$ 15,790.32</b>	<b>159,230.15</b>	<b>175,020.47</b>	<b>\$ 12,426.86</b>	<b>\$ 152,841.17</b>	<b>\$ 165,268.03</b>	<b>\$ (3,363.46)</b>	<b>(9,752.44)</b>

INSPECTIONS	Oct-14	PREVIOUS	YTD 14	Oct-15	PREVIOUS	YTD 15		
	167	1,324	1,491	206	1,580	1,786	39	295

  
 Darius S. Lester  
 Building Official

( ) represents a negative

## Monthly Approval Report October 2015

<i>District</i>	<i>Action</i>	<i>ID#</i>	<i>Description</i>	<i>Tax Map</i>	<i>Parcels</i>	<i>Total Acreage</i>	<i>Number of Lots</i>
<b>Cunningham</b>							
	<i>Approved</i>						
		BSP 15-014	Boundary Survey	46	(A) 6	0	
<i>Text75:</i>							
<b>Fork Union</b>							
	<i>Approved</i>						
		SUB 15-025	Grassed Residential site with home	40	(A,70 ) 1, 11	4.862	
<i>Text75:</i>							
<b>Palmyra</b>							
	<i>Approved</i>						
		ZMP 15-002		8	(A) A14A	21.5	
<i>Text75:</i>							

<i>AFD - Agricultural Forestal District</i>	<i>BSP - Boundary Survey Plat</i>
<i>BZA - Board of Zoning Appeals (Variance)</i>	<i>CCE - Code Compliance Enforcement</i>
<i>CPA - Comprehensive Plan Amendment</i>	<i>SDP - Site Development Plan</i>
<i>SUB - Subdivisions</i>	<i>SUP - Special Use Permits</i>
<i>ZMP - Zoning Map Proposal (Rezoning)</i>	<i>ZTA - Zoning Text Amendment</i>

# Code Compliance Enforcement Activity Report

ID#	Tax Map Parcels	Reported Against	Type of Violation	Comments	Status	Status Date
<b>Columbia</b>						
CCE 13-012	33 (9)-1A	Liberty Homes, LLC, Et Al	Trash	Property address is located west of No.3049 Cedar Lane. Complaint is in regards trash, debris and junk. Site inspection 3-05-2013 noted an accumulation of trash and debris that could be providing a habitat for rodents and vermin. 1st letter sent 4-25-2013. Site inspec. 5-30-2013 noted some progress during new house construction. Monitoring continues.	Awaiting Action	6/27/2013
CCE 13-011	33 (A)-57	Gail Bruce, Et, Al	Trash	Complaint is in regards trash, debris and junk. Site inspection 3-05-2013 noted an accumulation of trash and debris that could be providing a habitat for rodents and vermin. 1st letter sent 4-25-2013. Owner advised 5-30-2013 that her tenant is cleaning up the property. Monitoring continues.	Awaiting Action	6/27/2013
<b>Fork Union</b>						
CCE 12-001	51A (A)22	JWS Enterprises, LLC (James W. Sherrill,	Misc.	4985 James Madison Hwy. Site insp. on 12-20-11 and 1-06-12 noted that the property is being used for general storage which is not a use permitted "by right" or "by SUP". 1st letter sent on 1/12/12. 2nd violation 1/31/12. Letter of intent approved by Darren Coffey 2/29/12. 3rd letter sent by hand delivery 4/09/13. Summons issued 4/29/13. 1st hearing 5-21-13. 2nd hearing 9-10-13.	Pending Court	5/21/2013
<b>Palmyra</b>						
CCE 12-002	3 (A)-31, 32	JWS Enterprises, LLC (James W. Sherrill,	Misc.	Behind 1017 Union Mills Road. Regards to "dumping". Site insp. 1/09/12 noted that contractor type materials are being stored on property. 1st letter sent 1/12/12. 2nd letter sent requesting intentions 1/31/12. Letter of intent approved by Darren Coffey 2/29/12. 3rd letter sent by hand delivery 4/09/13. Summons issued 4/29/13. 1st hearing 5-21-13. 2nd hearing 9-10-13.	Pending Court	5/21/2013

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<b>ID#</b>	<b>Tax Map Parcels</b>	<b>Reported Against</b>	<b>Type of Violation</b>	<b>Comments</b>	<b>Status</b>	<b>Status Date</b>
CCE 10-013	10 (3)-2B	Eric D. Taylor	SUPs	Property is at intersection of Union Mills Road and North Boston Road. SDP 10:09 approved 07/26/11. SDP requirements not implemented as of 9-23-11. 2nd letter sent 9/23/11. 3rd letter sent 1/24/12. Site inspec. 2/3/12 noted newly vegetative screening per/approved SDP. Monitoring conitues.	Awaiting Action	5/8/2012

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## *Transmittal Report October 2015*

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<i>Line Number</i>	<i>Code</i>	<i>Name</i>	<i>ID#</i>	<i>Amount Received</i>
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*Subdivision & Plat Review*

			BSP15017	\$50.00
			BSP15018	\$50.00
			<i>Sum:</i>	\$100.00

**10000013-318319**

*SIGNPT Sign Permit*

			SUP15010	\$90.00
			<i>Sum:</i>	\$90.00

**10000013-318337**

*SITEPL Site Plan Review*

			SDP15016	\$150.00
			SDP15017	\$1,100.00
			<i>Sum:</i>	\$1,250.00

**10000013-318341**

*Subdivision & Plat Review*

			SUB15025	\$100.00
			SUB15024	\$100.00
			SUB15026	\$100.00
			SUB15027	\$350.00
			SUB15028	\$175.00
			SUB15028	\$50.00
			SUB15029	\$250.00
			<i>Sum:</i>	\$1,125.00

**10000013-318342**

*SPUSEP Special Use Permits*

			SUP15010	\$800.00
			<i>Sum:</i>	\$800.00

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<i>Line Number</i>	<i>Code</i>	<i>Name</i>	<i>ID#</i>	<i>Amount Received</i>
				<i>Total:</i> \$3,365.00

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**FLUVANNA COUNTY PLANNING COMMISSION REGULAR MEETING MINUTES**

**Circuit Court Room--Fluvanna County Courts**

**October 28th, 2015**

**7:00 p.m.**

**MEMBERS PRESENT:** Barry Bibb, Chairman  
Lewis Johnson  
Patricia Eager  
Donald Gaines

**ALSO PRESENT:** Jason Stewart, Planning and Zoning Administrator  
Steven Tugwell, Senior Planner  
Jay Lindsey, Planner  
Deidre Creasy, Senior Program Support Assistant  
Frederick Payne, Fluvanna County Attorney

**Absent:** Ed Zimmer, Vice Chairman  
Tony O'Brien Board of Supervisors Rep

**CALL TO ORDER/PLEDGE OF ALLEGIANCE**

Barry Bibb, Chairman called the meeting to order at 7:00p.m., after which the Pledge of Allegiance was recited.

**PLANNING DIRECTOR'S REPORT (Mr. Stewart)**

1. Board of Supervisors Actions:

October 7, 2015:

None.

October 21, 2015:

**Approved 5-0 ZMP 15:02 – Steven L. Peters** - An ordinance to amend the Fluvanna County Zoning Map with respect to 21.5 acres of Tax Map 8, Section A, Parcel A14A to rezone the same from A-1, Agricultural, General to B-1, Business, General (conditional). The affected property is located on the northwest corner of the intersection of Thomas Jefferson Parkway (Route 53), and Lake Monticello Road. The property is located in the Palmyra Election District and is within the Rivanna Community Planning Area.

2. Board of Zoning Appeals Actions:

*No October meeting.*

3. Technical Review Committee:

*No October meeting.*

**PUBLIC COMMENTS #1**

Chairman Bibb opened the floor for the first section of public comments.

**APPROVAL OF MINUTES**

**MOTION:** Mrs. Eager moved to accept the minutes of September 23, 2015 with edits, Mr. Johnson seconded. The motion carried a vote of 4-0-0. **AYES:** Bibb, Eager, Johnson and Gaines **NAYS:** None.

**ABSTAIN:** None

**SUBDIVISIONS:** None

**SITE DEVELOPMENT PLANS:** None

**Public Hearings:**

**SUP 15:07– Raymond Goffin** - A request for a special use permit to operate an outdoor recreation facility and Small Restaurant with respect to 46.02 acres of Tax Map 18, Section A, Parcel 12. The property is currently zoned A-1 (Agricultural, General) and is located on the northern side of State Route 619 (Ruritan Lake Road) approximately one-half mile northwest of its intersection with Sclaters Ford Road. The property is located within the Cunningham Election District and is within the Rural Residential Planning Area.

**Senior Planner Steve Tugwell** conducted a brief presentation and addressed the Board

**Bibb:** Confirmed there is a 50 ft. right of way and spoke of VDOT not being able to comply with the 610 ft. sight distance requirement; however advised all VDOT constructions will need to be complied with going forward.

**Senior Planner Steve Tugwell** advised that VDOT has asked for an entrance analysis and once that is completed recommendations in regards to the entrance will be made. He then explained the site development plan process in regards to this SUP.

**Bibb:** Asked if the exact footage adjacent to the property off of Rt. 53 was known?

**Senior Planner Steve Tugwell:** Explained that he doesn't know the exact footage but believes it is at least 1800ft.

**Bibb:** Advised he has been in the area trying to figure out where the possible access area is but he was unable to find it.

**Senior Planner Steve Tugwell:** Explained that to his understanding, the applicant would not be using that access and it could possibly be used as an alternative entrance in the future.

**Payne:** Asked was if the County had a copy of the 50 ft. civil right of way mentioned on the sketch?

**Senior Planner Steve Tugwell:** Answered no

**Payne:** Expressed the importance of having a copy of the civil right of way.

**Bibb:** Explained where the right of way ends and the civil right of way begins and gave the applicant a chance to speak.

**Applicant Goffin:** Explained that he has went through the books and as far as the judge goes everything is documented and he has pages of where they are, however he does not have the information with him.

**Bibb:** Asked if there were exceptions or conditions to the easement?

**Applicant Goffin:** Answered no it was a civil order by the judge. Also clarified that on the additional entrance they were just looking for emergency access but other options can be looked at.

**Bibb:** Clarified with the applicant that the Rt.53 entrance will be the opening entrance. Also if it is a commercial entrance requiring more than 50 ft. how will that issue be solved? Then asked has he spoken with property owners if entrances need to be widened?

**Applicant Goffin:** Answered no

**Gaines:** Inquired what is the caretaker facility?

**Applicant Goffin:** Explained that the caretaker facility will be available if showers or food were needed and no one would be living on the property permanently but would have the option to stay there to ensure that the facility was secure.

**Bibb:** Inquired about the possibility of a small restaurant and advised it has to be less than 2000 sq. ft.

**Applicant Goffin:** Advised it would be a very small area only serving donuts, lemonade and coffee so people don't have to leave the premises to have a snack or drink.

**Bibb:** Inquired about the possibility of a residence use?

**Senior Planner Steve Tugwell:** Gave an explanation of the ordinances for single family and accessory dwellings.

**Payne:** Asked is there anything that needs to be done to accommodate the living quarters whether there are owners or employees staying there. Also does someone need to be onsite to provide security in conjunction with the securities usage? He also explained issues that he has with the easement where he referenced previous cases with some of the same underlying issues. Lastly, he addressed concerns about the sight distance qualities and not having all the easement information.

**Bibb:** Inquired about the differences between rights of ways in residential vs business properties.

**Payne:** Gave an explanation of how easements and right of ways are created and uses especially when the judicial system is involved.

### **Public Hearing Comments**

**Chairman Bibb opened the floor for the public hearing section of public comments.**

**Ray Helliger:** Inquired what kind of track was being proposed and was advised that it is a running track. Likewise, explained that there is danger in the location 619/53 being an access road because of the knoll.

**Steve Mulchman:** Advised that he owns the right of way land in question and there are stipulations associated with it. He then advised that there is a good possibility the right of way comes across the corner of his septic which is addressed in the judicial order. Also there are notations in regards to a culvert pipe that was crushed by log trucks and now when there is a heavy rain, the right of way is washed out.

**David Wood:** 3383 Thomas Jefferson pkwy: Advised he owns property near the supposed access road on 619 and he advised there is no access point and a bridge would have to be put in place.

**John Sprouse:** 4789 Ruritan Lake Rd: Advised that his land is right beside the creek and the land is all swamp. He also indicated that the creek floods the field periodically.

**With no one wishing to speak, Chairman Bibb closed the first public comment section.**

**Bibb:** Explained that a lot of questions have been opened up and their needs to be further investigated in reference to the entrance and the types of facilities.

**Eager:** Expressed her belief that the SUP should be deferred until further questions can be answered.

### **MOTION:**

**Mr. Johnson moved to defer SUP 15:07 –, Mr. Gaines seconded.** The motion carried **with a vote of 4-0-0. AYES: Bibb, Eager, Johnson & Gaines NAYS: None. ABSTAIN: None**

**SUP 15:09 – Rountop Limited Partnership** - A request to amend Special Use Permit SUP 14:04 to allow for an expansion of the educational facility to 75 occupants in 6 Centre Ct., and 49 occupants in 7 Centre Ct. with respect to 6.343 acres of a portion of Tax Map 18A, Section 4, Parcel 13A. The property is zoned B-1 (Business, General) and is located on the north side of Slice Road, approximately 500 feet from its intersection with Route 600 (South Boston Road). The property is located in the Palmyra Election District and is within the Rivanna Community Planning Area.

**Senior Planner Steve Tugwell** conducted a brief presentation and addressed the Board

**Bibb:** Advised that since the property has been there he has no objections and had the property owner come forward.

**Applicant Parr:** Explained that the school grew faster than anticipated and the school uses the businesses around it for services needed. Likewise explained since there was a growth the school needed to make accommodations to ensure they met fire code.

**Eager:** Inquired about the conditions of the school hours being 8a to 4p?

**Applicant Parr:** Explained that staff arrives at 7:30 am, the regular day begins from 8:15 am to 3 p.m. and the after school program lasts until 6 p.m. Also advised they allow other local businesses to use their classrooms at night occasionally.

**Eager:** Inquired about what the previous conditions were on her first SUP?

**Applicant Parr:** Advised that the SUP she had before says extended hours and not 8am to 4pm.

**Bibb:** Asked does the SUP need to be amended?

**Senior Planner Steve Tugwell:** Advised he didn't believe so because the hours of operation are not changing.

**Eager:** Explained she believes the Planning Commission made recommendations and when the SUP went to the Board they were changed.

**Payne:** Confirmed with Mr. Gaines that the conditions should be changed to what the Board initially approved.

**Applicant Parr:** Advised that it was not in her plan to change anything the Board had approved she just wanted to amend the occupancy.

**Payne:** Advised that if the intent is to change one condition the others should be left as approved by the Board.

**Stewart:** Read the conditions that were approved.

**Payne:** Reiterated to the Board to only mention condition #1 in the motion.

**Public Hearing Comments**

**Chairman Bibb opened the floor for the public hearing section of public comments.**

**With no one wishing to speak Chairman Bibb closed the public hearing section and opened Planning Commission discussion.**

**MOTION:**

**Mrs. Eager moved to recommend approval of SUP 1509 –, Mr. Gaines seconded. The motion carried with a vote of 4-0-0. AYES: Bibb, Eager, Johnson & Gaines NAYS: None. ABSTAIN: None**

**PRESENTATIONS: None**

**UNFINISHED BUSINESS: CIP Discussion**

**Bibb:** Confirmed with Eric Dahl that the only two things added was the intake for the JRWA and the Zions Crossroads project.

**Eager:** Confirmed with Eric Dahl that the \$6 million dollar Zions Cross Roads project included the Women's prison.

**Eager:** Inquired if Dahl considered this project the most important?

**Dahl:** Advised he was unable to make that decision but it is listed as a number 1 however, a lot of decisions will be left up to the Board. Likewise gave a brief explanation of the Sherriff's office radio project being lease financed.

**\*Various discussion of funding and explanations of what the Board would be able to do with the funds\***

**Bibb:** Expressed concerns about the school wanting to use funds from the County instead of their instructional budget.

**Eager:** Gave a brief explanation of an analysis of where the budget has gone up for the last 10 years, specifically related to the school system.

**Bibb:** Spoke of his concerns in relation to building repairs and advocated for County-wide building assessments.

**\*Various discussion on replacement costs\***

**Bibb:** Inquired about fire and rescue funding.

**Dahl:** Gave a fiscal response regarding the line item.

**NEW BUSINESS: Discussion and Advertisement of the Proposed Fluvanna County Zoning & Subdivision Ordinance Updates**

**Payne:** Advised this is something that should have been done anyways but the County got behind on. Likewise explained there are three types of amendments, 1. Where statutory citations may have changed, 2. Where the grammar, coding or expressions are new, 3. Provisions that change as a result of law and 4. changes with sign regulations.

**MOTION:**

**Mrs. Eager moved to initiate the meeting for the zoning ordinance**, Mr. Gaines seconded. The motion carried **with a vote of 4-0-0. AYES: Bibb, Eager, Johnson & Gaines NAYS: None. ABSTAIN: None**

**Mr. Gaines moved to initiate the meeting for the subdivision ordinance**, Mr. Johnson seconded. The motion carried **with a vote of 4-0-0. AYES: Bibb, Eager, Johnson & Gaines NAYS: None. ABSTAIN: None**

**PUBLIC COMMENTS #2**

Chairman Bibb opened the floor for the second section of public comments.

With no one wishing to speak, Chairman Bibb closed the second public comment section.

**ADJOURN**

There being no further business, Chairman Bibb adjourned the Planning Commission meeting of October 28, 2015 at 8:38 p.m.

Minutes recorded by Deidre Creasy, Senior Program Assistant.

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Barry A. Bibb, Chairman  
Fluvanna County Planning Commission



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## COUNTY OF FLUVANNA

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*"Responsive & Responsible Government"*

P.O. Box 540 Palmyra, VA 22963 (434) 591-1910 FAX (434) 591-1911 [www.co.fluvanna.va.us](http://www.co.fluvanna.va.us)

### STAFF REPORT

**To:** Fluvanna County Planning Commission

**From:** James Newman

**Case Number:** ZTA 15:04; 15:05

**Date:** November 16, 2015

*General Information:* This request is to be heard by the Fluvanna County Planning Commission on Monday, November 16, 2015 at 7:00 pm in the Circuit Courtroom in the Fluvanna County Courts Building.

*Applicant/Representative:* Fluvanna County

*Requested Action:* Amend the Fluvanna County subdivision subsections 19-1-3, 19-3-4, 19-3-5, 19-3-6, 19-3-6.3, 19-6-3, 19-7-6, 19-8-1, 19-8-4, 19-8-5, and 19-8-7 as well as zoning ordinance subsections 22-1-2, 22-2.1, 22-4-6, 22-4-9.1, 22-4-9.2, 22-4-9.4, 22-7-4, 22-7-5, 22-7-12, 22-9-2, 22-9-3, 22-10-5, 22-11-2, 22-12-9, 22-13-1, 22-13-2, 22-13-3, 22-13-4, 22-13-5, 22-13-6, 22-13-7, 22-14-8, 22-14-8.3, 22-15-1, 22-15-2, 22-15-2.1, 22-15-4, 22-15-5, 22-15-4.1, 22-16-8, 22-17-1, 22-17-6, 22-17-9, 22-17-15, 22-17-16, 22-17-18, 22-18-1, 22-18-1.1, 22-18-2, 22-18-4, 22-18-5, 22-18-6, 22-18-7, 22-18-7.1, 22-21-3, 22-22, 22-23-6, 22-23-7, 22-24-3, 22-24-4, 22-25-4, 22-25-6, 22-26-4, 22-27-2, 22-27-6, 22-27-9.9, 22-27-10.2, 22-27-10.3, 22-27-10.3.A, 22-27-10.3B, and 22-27-11.1.

- Amends and reenacts the Fluvanna County Zoning Ordinance, as well as the Fluvanna County Subdivision Ordinance, to conform to the current enabling legislation, as amended, and federal court decisions.
- Applies to public hearings of both the Planning Commission and the Board of Supervisors (Governing Body).

The amendment will affect subdivision ordinance Sec. 19-1, Sec. 19-3, Sec. 19-6, Sec. 19-7, and Sec. 19-8, as well as zoning ordinance Sec. 22-1, Sec. 22-2, Sec. 22-4, Sec. 22-7, Sec. 22-9, Sec. 22-10, Sec. 22-11, Sec. 22-12, Sec. 22-13, Sec. 22-14, Sec. 22-15, Sec. 22-16, Sec. 22-17, Sec. 22-18, Sec. 22-21, Sec. 22-22, Sec. 22-23, Sec. 22-24, Sec. 22-25, Sec. 22-26, and Sec. 22-27.

### Background

#### Project Timeline:

The proposed action has been discussed at the October 28, 2015 Planning Commission meeting.

## **Analysis**

The proposed amendment amends both the Fluvanna County Subdivision Ordinance, and the Fluvanna County Zoning Ordinance. The amendments made are in response to recent legal developments at the Federal and Supreme Court level.

### Comprehensive Plan

Fluvanna County's *Vision Statement* includes the following principles:

- That our government should reflect the values and principles of the people.
- That the individual citizens and taxpayers of Fluvanna consist of our community, and that their individual interests and rights subordinate the collective desires of our government.

By updating our ordinances to reflect the latest legal requirements, the County can ensure that its land use decisions are enforceable and up-to-date, while providing staff and local citizens with modern planning guidance.

### **Planning Commission**

The Planning Commission discussed this issue at its regular meeting on October 28, 2015. The Commission voted to hold a public hearing on November 16, 2015.

### **Conclusion**

The proposed amendment to the Fluvanna County Zoning Ordinance would better inform citizens of Public Hearings regarding certain zoning actions.

The proposed amendment is intended to:

- Help the Zoning Administrator enforce local zoning requirements; and
- Help citizens stay abreast of land use decisions which may affect them and their community.

This proposal, initiated by the Planning Department after several months of consideration, is consistent with the 2015 Comprehensive Plan.

## **Suggested Motion**

I move to recommend that the Planning Commission [approve/deny] ZTA 15:04, an amendment and accompanying resolution to the Fluvanna County Zoning Ordinance entitled “AN ORDINANCE TO AMEND AND REENACT CHAPTER 22, ARTICLES 1, 2, 4, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, AND 27 OF THE FLUVANNA COUNTY CODE BY CERTAIN AMENDMENTS TO SECTIONS AND SUBSECTIONS 22-1-2, 22-2.1, 22-4-6, 22-4-9.1, 22-4-9.2, 22-4-9.4, 22-7-4, 22-7-5, 22-7-12, 22-9-2, 22-9-3, 22-10-5, 22-11-2, 22-12-9, 22-13-1, 22-13-2, 22-13-3, 22-13-4, 22-13-5, 22-13-6, 22-13-7, 22-14-8, 22-14-8.3, 22-15-1, 22-15-2, 22-15-2.1, 22-15-4, 22-15-5, 22-15-4.1, 22-16-8, 22-17-1, 22-17-6, 22-17-9, 22-17-15, 22-17-16, 22-17-18, 22-18-1, 22-18-1.1, 22-18-2, 22-18-4, 22-18-5, 22-18-6, 22-18-7, 22-18-7.1, 22-21-3, 22-22, 22-23-6, 22-23-7, 22-24-3, 22-24-4, 22-25-4, 22-25-6, 22-26-4, 22-27-2, 22-27-6, 22-27-9.9, 22-27-10.2, 22-27-10.3, 22-27-10.3.A, 22-27-10.3B, AND 22-27-11.1. THEREOF, AMENDING AND REENACTING THE FLUVANNA COUNTY ZONING ORDINANCE TO CONFORM TO THE CURRENT ENABLING LEGISLATION, AS AMENDED, AND FEDERAL COURT DECISIONS.”

I move to recommend that the Planning Commission [approve/deny] ZTA 15:05, an amendment and accompanying resolution to the Fluvanna County Subdivision Ordinance entitled “AN ORDINANCE TO AMEND AND REENACT CHAPTER 19, ARTICLES 1, 3, 6, 7, AND 8 OF THE FLUVANNA COUNTY CODE BY CERTAIN AMENDMENTS TO SECTIONS AND SUBSECTIONS 19-1-3, 19-3-4, 19-3-5, 19-3-6, 19-3-6.3, 19-6-3, 19-7-6, 19-8-1, 19-8-4, 19-8-5, AND 19-8-7. THEREOF, AMENDING AND REENACTING THE FLUVANNA COUNTY SUBDIVISION ORDINANCE TO CONFORM TO THE CURRENT ENABLING LEGISLATION, AS AMENDED.”

### **Attachments:**

- A: Proposed Subdivision Ordinance Amendment
- B: Proposed Zoning Ordinance Amendment

*The Fluvanna County Planning Commission resolves to propose an amendment and reenactment of the Fluvanna County zoning ordinance entitled "AN ORDINANCE TO AMEND AND REENACT CHAPTER 22, ARTICLES 15 AND 22 OF THE FLUVANNA COUNTY CODE BY CERTAIN AMENDMENTS TO SECTIONS AND SUBSECTIONS 22-15-1, 22-15-2, 22-15-2.1, 22-15-4, 22-15-5, AND 22-22. THEREOF, AMENDING AND REENACTING THE FLUVANNA COUNTY SIGN ORDINANCE TO CONFORM TO CURRENT ENABLING LEGISLATION, AS AMENDED, AND FEDERAL COURT DECISIONS."*

*The public purpose for such amendment is to conform the Fluvanna County sign ordinance to the current enabling legislation, as amended, and federal court decisions.*

BE IT ORDAINED BY THE PLANNING COMMISSION OF FLUVANNA COUNTY, VIRGINIA, that the Fluvanna County Code be, and it is hereby, amended and reenacted as follows:

**Chapter 22  
ZONING**

.....  
**Article 15. Sign Regulations**

- Sec. 22-15-1. Statement of intent.
- Sec. 22-15-2. General provisions.
- Sec. 22-15-2.1. ~~Political signs on privately owned property. Repealed.~~
- Sec. 22-15-3. Signs permitted.
- Sec. 22-15-4. Administration.
- Sec. 22-15-4.1 "Going out of business" and "Special" sales.
- Sec. 22-15-5. Non-conforming signs.

.....  
**Article 15. SIGN REGULATIONS**

**Sec. 22-15-1. Statement of intent.**

The following sign regulations are established to assure compatibility of signs with surrounding land usage, to enhance the economy of the county, to protect public investment in streets and highways, to promote the safety and recreational value of public travel, *to minimize possible adverse effects of signs on nearby public and private property*, to preserve natural beauty, *to protect the environment from litter and refuse, including abandoned signs, and to identify, direct and provide necessary information efficiently to motorist and pedestrians, to decrease distraction of motorists and pedestrians by limiting confusing, distracting and obsolete signs, and to reduce obstruction of the roadway.* No sign shall be permitted erected or used in the county, except as permitted in this article. (Ord. 6-16-10)

**Sec. 22-15-2. General provisions.**

(1) Restricted Signs – The following types of signs are prohibited in all zoning districts:

- (a) Flashing signs;
- (b) Inflatable signs;
- (c) Moving signs;
- (d) ~~Off-premise signs; Intentionally omitted;~~
- (e) Pennant signs;
- (f) Portable signs;
- (g) Roof signs;
- (h) Any sign that obstructs any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress or egress for any building, as required by law;
- (i) Any sign which imitates or resembles any official traffic sign, signal or device, or uses the words “Stop” or “Danger” in close proximity to any public right-of-way, or interferes with any other public traffic sign;
- (j) Signs which produce noise or any visible smoke, vapor, particles, or odor;
- (k) Signs which advertise any activities which are illegal under state or federal law or regulations in effect at the location of such sign or at the location of such activities; and
- (l) Signs that violate state or federal laws, whether or not identified in this ordinance as being permitted.

(2) Exempt Signs – *Exempt signs shall be of reasonable size and no larger than the largest permitted signs in the zoning district, unless otherwise specified in this Code. Exempt signs shall be legible, and shall be reasonably maintained in good repair, and in safe, neat, and clean condition. Any temporary exempt sign, defined in Sec. 22-22-1 of this Code, shall be posted a reasonable time before, but in no event greater than thirty (30) days prior to and shall be removed a reasonable time after, but in no event greater than ten (10) days after the event, election, production, group, occurrence, speaker, program or seasonal activity to which the temporary sign refers.* The following types of signs, as defined in and subject to the regulations in Sec. 22-22-1, are exempt from the sign permit requirements in all zoning districts.:

- (a) Auction signs;
- (b) Banner signs;

- (c) Construction signs;
- (d) Directional signs;
- (e) Estate signs;
- (f) Public signs;
- (g) Real estate signs;
- (h) Temporary signs;
- (i) Temporary directional signs;
- (j) Warning signs; and
- (k) Window signs.

(3) Illuminated Signs

- (a) Signs may be illuminated, either internally or externally, as permitted by this ordinance, provided that the illumination is fully shielded and directed at the sign and not in a manner as to cause a traffic hazard.
- (b) Where a permit is required, the permit shall not be issued until the location and illumination of the sign has been approved by the zoning administrator, or designee.
- (c) No light from any illuminated sign shall cause direct glare onto any adjoining piece of property, right-of-way, or building other than the building to which the sign applies to.
- (d) The copy of electronic message signs may not flash, scroll, move, or change at timed intervals of less than 20 seconds.
- (e) All electronic message signs must be equipped with an automatic dimmer that controls the intensity of the light source. The intensity of light allowed for all illuminated signs shall be 85 percent by day and 50 percent at night.
- (f) All electronic message signs must be turned off at the close of business, unless displaying time or temperature.

(4) Setbacks

- (a) Signs shall be exempt from setback requirements in all zones, provided that no sign shall be located as to interfere with vehicular sight distances at intersections or to create a safety hazard.

(b) Signs shall not be located within any public right-of-way, unless approved by the Virginia Department of Transportation.

(5) Sign Area

(a) The sign area shall be measured as the area of the sign face which includes the advertising surface and any framing, trim, or molding. Two sided sign faces shall be counted as a single sign face.

(b) Area not included – the sign area shall not include any of the support structure or architectural features that are not an integral part of the sign which may consist of landscaping, building structural form complementing the site in general.

(6) Sign Height

(a) The sign height shall be measured as the vertical distance from the normal grade directly below the sign to the highest point of the sign or sign structure, whichever is higher and shall include the base and any support structure.

(b) Signs shall not exceed six (6) feet in height, except as otherwise permitted by this article.

(Ord. 6-16-10)

**Sec. 22-15-2.1. ~~Repealed. Political signs on privately owned property.~~**

~~(1) No political sign may be larger than the largest other sign allowed in the zoning district.~~

~~(2) No political sign may be illuminated if it is larger than a business sign allowed in the zoning district.~~

~~(3) Every political sign that is directed toward a particular election issue or candidate may be erected not more than 60 days before such election and shall be removed and lawfully disposed of not more than 10 days after such election. (Ord. 6-16-10)~~

.....

**Sec. 22-15-4. Administration.**

(1) Permit Requirements – Except as otherwise provided herein, no sign shall be erected, altered, refaced or relocated unless a sign permit has been approved by the Zoning Administrator. Where there is a discrepancy between Fluvanna County and the Virginia Department of Transportation sign regulations, the more stringent shall apply. Where the Fluvanna County sign regulations do not recognize a particular type of sign, the Virginia Department of Transportation regulations shall apply.

(2) Maintenance and Removal

(a) All signs shall be constructed in compliance with the ~~International~~ *Uniform Statewide Building Code*, as adopted by the Virginia State Code.

- (b) All signs and components thereof shall be *legible and shall be* maintained in good repair and in a safe, neat, and clean condition.
- (c) The Zoning Administrator may cause to have removed or repaired immediately any sign which, in the Zoning Administrator's opinion, has become insecure, in danger of falling, or otherwise unsafe, and, as such, presents an immediate threat to the safety of the public. If such action is necessary to render a sign safe, the cost of such emergency removal or repair shall be at the expense of the owner or lessee thereof.
- (d) Any sign that is obsolete, because of discontinuance of the subject activity or any other reason that would cause the sign to be obsolete, shall be removed within ~~thirty~~ *ten (10)* days.
- (e) Any sign located on property, which becomes vacant and is unoccupied for a period of two (2) years or more shall be deemed abandoned. An abandoned sign shall be removed by the owner or lessee of the property. If the owner or lessee fails to remove the sign, the Zoning Administrator shall give the owner fifteen (15) days written notice to remove it. Upon failure to comply with this notice, the Zoning Administrator may initiate such action as may be necessary to gain compliance with this provision. (Ord. 6-16-10)

.....

**Sec. 22-15-5. Non-conforming signs.**

- (1) No nonconforming sign shall be enlarged nor be worded so as to advertise or identify any use other than that in effect at the time it became a nonconforming sign.
- (2) Signs lawfully existing on the effective date of this ordinance or prior ordinances, which do not conform to the provisions of this ordinance, and signs which are accessory to a nonconforming use shall be deemed to be nonconforming signs and may remain except as qualified below. Such signs shall not be enlarged, extended or structurally reconstructed or altered in any manner, except a sign face may be changed so long as the new face is equal to or reduced in height and/or sign area. The burden of establishing the nonconforming status of signs and of the physical characteristics/location of such signs shall be that of the owner of the property. Upon notice from the Zoning Administrator, a property owner shall submit verification that sign(s) lawfully existed at time of erection. Failure to provide such verification shall be cause for order to remove sign(s) or bring sign(s) into conformance with the current ordinance.
- (3) Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign; provided, however, that no nonconforming sign which has been declared by the Zoning Administrator to be unsafe because of its physical condition, as provided for in this ordinance, shall be repaired, rebuilt or restored unless such repair or restoration will result in a sign which conforms to all applicable regulations.
- (4) No nonconforming sign shall be moved for any distance on the same lot or to any other lot unless such change in location will make the sign conform to the provisions of this article.

- (5) If a nonconforming sign is removed, the subsequent erection of a sign shall be in accordance with the provisions of this article.
- (6) A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding fifty (50) percent of its replacement value may be restored within two (2) years after such destruction or damage but shall not be enlarged in any manner. If such sign is so destroyed or damaged to an extent exceeding fifty (50) percent, it shall not be reconstructed except for a sign, which would be in accordance with the provisions of this article.
- (7) A nonconforming sign that is changed to, or replaced by, a conforming sign shall no longer be deemed nonconforming, and thereafter such sign shall be in accordance with the provisions of this article.
- (8) A nonconforming sign shall be removed if the structure to which it is accessory is demolished or destroyed to an extent exceeding fifty (50) percent of its appraised value.
- (9) The ownership of the sign or the property on which the sign is located shall not, in and of itself, affect the status of a non-conforming sign.
- (10) *A nonconforming sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two years. After the two year period, the zoning administrator shall make a reasonable attempt to contact the property owner. If the property owner refuses to remove the abandoned sign, the county's agents or employees may enter the property upon which the sign is located and remove such sign and charge the cost of removal to the owner of the property. Nothing herein shall prevent the county from applying to the appropriate courts for an order requiring removal of the abandoned nonconforming sign by injunction or other appropriate remedy.<sup>1</sup>*  
 (Ord. 6-16-10)

.....  
**Article 22. Definitions**

**Sec. 22-22-1. Rules of construction; definitions.**

The following terms shall have the meanings assigned to them as hereinafter set forth. Except as expressly otherwise defined herein, all terms used in this chapter shall have their ordinary and established meanings, as the context may require. A word importing the masculine gender only may extend and be applied to females and to corporations as well as males. A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing; and a word importing the plural number only may extend and be applied to one person or thing as well as to several persons or things.

.....  
 SIGN, AUCTION: A *temporary* sign, not illuminated, advertising an auction to be conducted on the lot or premises upon which it is situated, such signs shall not exceed 20 square feet in area.

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<sup>1</sup> For state authority as to the removal of abandoned nonconforming signs, see Code of Va., § 15.2-2307.

~~and may be erected not more than one (1) month before the date of the auction advertised and shall be removed within forty-eight (48) hours of its conclusion.~~

.....

SIGN, BANNER: A temporary sign, not exceeding 32 square feet, made of fabric or other flexible material, suspended from a fixed structure, rope, wire, string, or cable. Banner signs are for the advertising of a special event, product, or group and are not to be displayed for a period of more than thirty (30) consecutive days, and not more than sixty (60) days total in a calendar year.

.....

SIGN, CONSTRUCTION: A temporary sign that identifies an architect, engineer, contractor, subcontractor, or material supplier who participates in construction on the property on which the sign is located. Such signs shall not exceed 32 square feet in area and eight (8) feet in height, and may be erected once the land disturbance permit has been issued for the property and must be removed upon issuance of a final certificate of occupancy.

.....

SIGN, POLITICAL: A *temporary* sign expressing or implying the opinion or opinions of an individual or group intended to influence the election or appointment of government officials and/or to influence the actions, policies and /or conduct of government. (Ord. 10-18-00)

.....

SIGN, TEMPORARY: A sign for the advertising of a special event, product, group, *occurrence, speaker, program* or seasonal activity and not intended or designed for permanent display, *including by way of example and not limitation, signs advertising an event, election, or campaign of an educational, political, religious, civic, philanthropic or historical organization. Temporary signs shall be posted a reasonable time before, but in no event greater than thirty (30) days prior to such event, as defined herein, and shall be removed a reasonable time after, but in no event greater than ten (10) days after such event, as defined herein. Temporary signs shall be of reasonable size and no larger than the largest permitted signs in the zoning district, unless otherwise specified in this Code.* ~~Such signs shall not exceed 12 square feet and are not to be displayed for a period of more than thirty (30) consecutive days, and not more than sixty (60) days total in a calendar year.~~

SIGN, TEMPORARY DIRECTIONAL: A *temporary* sign directing individuals to the location of a special event or gathering. ~~Such signs shall not exceed twelve (12) square feet and shall not be posted more than seven (7) days prior to the event and must be removed within seven (7) days after the event.~~

.....

SIGN, WARNING: A sign, ~~not exceeding four (4) square feet,~~ located on a property for warning or prohibitions on parking, trespassing, hunting, fishing, swimming, or other activity.

2015 Fluvanna County Code Update – Amendments to Sign Ordinance, Chapter 22, Sections 15 & 22  
 Review by Planning Commission.

	Public Purpose: Amend and Re-enact the sign ordinance to conform to enabling state and federal legislation and to current federal court decisions.	
	<b><u>Chapter 22, Sections 15 and 22: Sign Ordinance</u></b> <b>Substantive Amendments</b>	
Fluvanna Code §§	Mandatory Update	Discretionary Update
Article 15	Sign Regulations must be amended to reflect new U.S. Supreme Court opinion regarding locality sign ordinances and Va. Code §15.2-109 restrictions on temporary political signs placed on private property. Recommendations follow:	
Sec. 22-15-1.	The following sign regulations are established to assure compatibility of signs with surrounding land usage, to enhance the economy of the county, to protect public investment in streets and highways, to promote the safety and recreational value of public travel, <i>to minimize possible adverse effects of signs on nearby public and private property, to preserve natural beauty, to protect the environment from litter and refuse, including abandoned signs, and</i> to identify, direct and provide necessary information <i>efficiently</i> to motorist and pedestrians, <i>to decrease distraction of motorists and pedestrians by limiting confusing, distracting and obsolete signs, and to reduce obstruction of the roadway.</i> No sign shall be permitted erected or used in the County, except as permitted in this article. (Ord. 6-16-10)	
Sec. 22-15-2(1).	Omit: (d) <del>Off-premise signs.</del> Intentionally omitted.	
Sec. 22-15-2(2)	<b>Add regulations of Exempt signs:</b>  (2)Exempt Signs – The following types of signs, as defined in and subject to the regulations in Sec. 22-22-1, are exempt from the sign permit requirements in all zoning districts. <i>Exempt signs shall be of reasonable size and no larger than the largest permitted signs in the zoning district, unless otherwise specified in this Code. Exempt signs shall be legible, and shall be reasonably maintained in good repair, and in safe, neat, and clean condition. Any temporary exempt sign, defined in Sec. 22-22-1 of this Code, shall be posted a reasonable time before, but in no event greater than 30 days prior</i>	

2015 Fluvanna County Code Update – Amendments to Sign Ordinance, Chapter 22, Sections 15 & 22  
 Review by Planning Commission.

	<i>to and shall be removed a reasonable time after, but in no event greater than 10 days after the event, election, product, group, occurrence, speaker, program or seasonal activity to which the temporary sign refers.</i>	
Sec. 22-15-2.1.	<b>REPEAL the Political Signs section. Political signs will be addressed as temporary signs, which are exempt signs, and which must be put up no more than 30 days in advance of election and be removed within 10 days after.</b>	
Sec. 22-15-4.	<p>Update Maintenance and Removal of Permitted Signs to be substantially the same as exempt sign requirements so that the County does not advantage commercial speech over non-commercial speech:</p> <p>(2)Maintenance and Removal</p> <p>(a) All signs shall be constructed in compliance with the <del>International Building Code</del> <i>Uniform Statewide Building Code</i>, as adopted by the Virginia State Code.</p> <p>(b) All signs and components thereof shall be <i>legible and shall be maintained in good repair and in a safe, neat, and clean condition.</i></p> <p>....</p> <p>(d) Any sign that is obsolete, because of discontinuance of the subject activity or any other reason that would cause the sign to be obsolete, shall be removed within <i>ten (10) thirty (30) days.</i></p>	
Sec. 22-15-5.		<p><b>Va. Code § 15.2-2307 provide a means for County to remove abandoned nonconforming signs. This authority can be exercised by the County by adding a subsection:</b></p> <p><i>(10)A nonconforming sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two years. After the two year period, the zoning administrator shall make a reasonable attempt to contact the property owner. If the property owner refuses to remove the abandoned sign, the county's agents or employees may enter the property upon which the sign is located and remove such sign and charge the cost of removal</i></p>

2015 Fluvanna County Code Update – Amendments to Sign Ordinance, Chapter 22, Sections 15 & 22  
 Review by Planning Commission.

		<p>to the owner of the property. Nothing herein shall prevent the county from applying to the appropriate courts for an order requiring removal of the abandoned nonconforming sign by injunction or other appropriate remedy.<sup>1</sup></p>
<p>Art. 22</p>	<p><b>Article 22 Definitions</b></p>	
	<p>Update definitions of SIGNS to reflect temporary nature and duration, which will, in turn, permit County regulations of temporary political signs; also, limit size of signs for commercial uses only:</p> <p>SIGN, AUCTION: A <i>temporary</i> sign, not illuminated, advertising an auction to be conducted on the lot or premises upon which it is situated, such signs shall not exceed <i>twenty (20)</i> square feet in area. <del>and may be erected not more than one (1) month before the date of the auction advertised and shall be removed within forty eight (48) hours of its conclusion.</del></p> <p>SIGN, BANNER: A temporary sign, not exceeding <i>thirty-two (32)</i> square feet, made of fabric or other flexible material, suspended from a fixed structure, rope, wire, string, or cable. Banner signs are for the advertising of a special event, product, or group.</p> <p>SIGN, CONSTRUCTION: A temporary sign that identifies an architect, engineer, contractor, subcontractor, or material supplier who participates in construction on the property on which the sign is located. Such signs shall not exceed <i>thirty-two (32)</i> square feet in area and eight (8) feet in height, and may be erected once the land disturbance permit has been issued for the property and must be removed upon issuance of a final certificate of occupancy.</p> <p>SIGN, POLITICAL: A <i>temporary</i> sign expressing or implying the opinion or opinions of an individual or group intended to influence the election or appointment of government officials and/or to influence the actions, policies and/or conduct of government.</p> <p>SIGN, TEMPORARY: A <i>temporary</i> sign for the advertising of a special event, product,</p>	

<sup>1</sup> For state authority as to the removal of abandoned nonconforming signs, see Code of Va., § 15.2-2307.

2015 Fluvanna County Code Update – Amendments to Sign Ordinance, Chapter 22, Sections 15 & 22  
Review by Planning Commission.

<p>group, occurrence, speaker, program, or seasonal activity and not intended or designed for permanent display, including by way of example and not limitation, signs advertising an event, election, or campaign of an educational, political, religious, civic, philanthropic, or historical organization. Temporary signs shall be posted a reasonable time before, but in no event greater than 30 days prior to such event, as defined herein, and shall be removed a reasonable time after, but in no event greater than 10 days after such event, as defined herein. Temporary signs shall be of reasonable size and no larger than the largest permitted signs in the zoning district, unless otherwise specified in this Code. - Such signs shall not exceed twelve (12) square feet and are not to be displayed for a period of more than thirty (30) consecutive days, and not more than sixty (60) days total in a calendar year.</p> <p>SIGN, TEMPORARY DIRECTIONAL: A temporary sign directing individuals to the location of a special event or gathering. Such signs shall not exceed twelve (12) square feet and shall not be posted more than seven (7) days prior to the event and must be removed within seven (7) days after the event.</p> <p>SIGN, WARNING: A sign, not exceeding four (4) square feet, located on a property for warning or prohibitions on parking, trespassing, hunting, fishing, swimming, or other activity on that property.</p>	
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*The Fluvanna County Planning Commission resolves to propose an amendment and reenactment of the Fluvanna County zoning ordinance entitled “AN ORDINANCE TO AMEND AND REENACT CHAPTER 22, ARTICLES 1, 2, 4, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, AND 27 OF THE FLUVANNA COUNTY CODE BY CERTAIN AMENDMENTS TO SECTIONS AND SUBSECTIONS 22-1-2, 22-2.1, 22-4-6, 22-4-9.1, 22-4-9.2, 22-4-9.4, 22-7-4, 22-7-5, 22-7-12, 22-9-2, 22-9-3, 22-10-5, 22-11-2, 22-12-9, 22-13-1, 22-13-2, 22-13-3, 22-13-4, 22-13-5, 22-13-6, 22-13-7, 22-14-8, 22-14-8.3, 22-15-1, 22-15-2, 22-15-2.1, 22-15-4, 22-15-5, 22-15-4.1, 22-16-8, 22-17-1, 22-17-6, 22-17-9, 22-17-15, 22-17-16, 22-17-18, 22-18-1, 22-18-1.1, 22-18-2, 22-18-4, 22-18-5, 22-18-6, 22-18-7, 22-18-7.1, 22-21-3, 22-22, 22-23-6, 22-23-7, 22-24-3, 22-24-4, 22-25-4, 22-25-6, 22-26-4, 22-27-2, 22-27-6, 22-27-9.9, 22-27-10.2, 22-27-10.3, 22-27-10.3.A, 22-27-10.3B, AND 22-27-11.1. THEREOF, AMENDING AND REENACTING THE FLUVANNA COUNTY ZONING ORDINANCE TO CONFORM TO THE CURRENT ENABLING LEGISLATION, AS AMENDED, AND FEDERAL COURT DECISIONS.”*

*The public purpose for such amendment is to conform the zoning ordinance to the current enabling legislation, as amended, and federal court decisions.*

BE IT ORDAINED BY THE PLANNING COMMISSION OF FLUVANNA COUNTY, VIRGINIA, that the Fluvanna County Code be, and it is hereby, amended and reenacted as follows:

**Chapter 22  
ZONING.**

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***Article 9. Business, General, District B-1.***

- Sec. 22-9-1. Statement of intent.
- Sec. 22-9-2. *Use regulations.*
- Sec. 22-9-2.1. Uses permitted by right.
- Sec. 22-9-2.2. Uses permitted by special use permit only.
- Sec. 22-9-3. Requirements for permitted uses.
- Sec. 22-9-4. Area regulations.
- Sec. 22-9-5. Setback regulations.
- Sec. 22-9-6. Yard regulations.
- Sec. 22-9-7. Height regulations.
- Sec. 22-9-8. Off street parking.
- Sec. 22-9-9. Sign regulations.
- Sec. 22-9-10. Sidewalks.

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***Article 11. Industrial, Limited, District I-1.***

- Sec. 22-11-1. Statement of intent.
- Sec. 22-11-2. *Use regulations.*

- Sec. 22-11-2.1. Uses permitted by right.
- Sec. 22-11-2.2. Uses permitted by special use permit only.
- Sec. 22-11-3. Requirements for permitted uses.
- Sec. 22-11-4. Area regulations.
- Sec. 22-11-5. Setback regulations.
- Sec. 22-11-6. Yard regulations.
- Sec. 22-11-7. Height regulations.
- Sec. 22-11-8. Coverage regulations.
- Sec. 22-11-9. Off-street parking.
- Sec. 22-11-10. Sign regulations.
- Sec. 22-11-11. Sidewalks.

.....  
**Article 13. ~~Mobile~~ Manufactured Home Park, District MHP.**

- Sec. 22-13-1. Statement of intent.
- Sec. 22-13-2. Use regulations.
- Sec. 22-13-2.1. Uses permitted by right.
- Sec. 22-13-2.2. Uses permitted by special use permit only.
- Sec. 22-13-3. Area regulations.
- Sec. 22-13-4. Setback regulations.
- Sec. 22-13-5. Frontage regulations.
- Sec. 22-13-6. Required improvements within lots.
- Sec. 22-13-7. Site plan required.

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**Article 15. Sign Regulations.**

- Sec. 22-15-1. Statement of intent.
- Sec. 22-15-2. General provisions.
- Sec. 22-15-2.1. ~~Political signs on privately owned property. Repealed.~~
- Sec. 22-15-3. Signs permitted.
- Sec. 22-15-4. Administration.
- Sec. 22-15-4.1 “Going out of business” and “Special” sales.
- Sec. 22-15-5. Non-conforming signs.

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**Article 17. General Provisions.**

- Sec. 22-17-1. Zoning permits.
- Sec. 22-17-2. Reserved.
- .....
- Sec. 22-17-15. Special exception for placement of a *manufactured mobile* home.
- Sec. 22-17-16. Special use permit for power production plants.
- Sec. 22-17-17. Public safety buildings exempt from certain requirements.
- Sec. 22-17-18. *Necessary subordinate uses.*

**Article 18. Provisions for Appeal and Variance.**

- Sec. 22-18-1. Board of zoning appeals.
- Sec. 22-18-1.1. Ex parte communications and proceedings.*
- Sec. 22-18-2. Powers of the Board of Zoning Appeals.
- Sec. 22-18-3. Rules and regulations.
- Sec. 22-18-4. Applications for variances, appeals to the Board of Zoning Appeals.
- Sec. 22-18-5. Appeal procedure.
- Sec. 22-18-6. Public hearing.
- Sec. 22-18-7. Certiorari to review decisions of board of zoning appeals.
- Sec. 22-18-7.1. Presumptions and burdens of proof.*

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**Article 1. In General.**

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**Sec. 22-1-2. Purpose.**

This chapter, together with the accompanying map, is adopted for the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of Virginia Code Section 15.2-2283. This chapter has been designed (1) to provide for adequate light, air, convenience of access, and safety from fire, flood, *impounding structure failure*, crime and other dangers; (2) ~~to accommodate traffic~~ *to reduce or prevent congestion in the public streets*; (3) to facilitate the creation of a convenient, attractive and harmonious community; (4) to expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, and other public requirements; (5) to protect against destruction of or encroachment upon historic areas; (6) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, *impounding structure failure*, panic or other dangers; (7) to encourage economic development activities that provide desirable employment and enlarge the tax base; (8) to provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment; and (9) to promote *the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the county is situated.*

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**Article 2. Districts.**

**Sec. 22-2-1. Districts.**

For the purpose of this chapter, the unincorporated area of the county is hereby divided into the following districts:<sup>1</sup>

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<sup>1</sup> Editor's note. -- Prior to August 19, 1992, the Zoning Ordinance of Fluvanna County, Virginia, contained a district identified as "Conservation, C-1." The Conservation, C-1 district was repealed by ordinance adopted on that date.

Agricultural, General, A-1  
 Residential, Limited, R-1  
 Residential, General, R-2  
 Residential, Planned Community, R-3  
 Residential, Limited, R-4  
 Business, General, B-1  
 Business, Convenience, B-C  
 Industrial, Limited, I-1  
 Industrial, General, I-2  
~~Mobile~~ *Manufactured Home Park, MHP.*  
*Planned United Development, PUD.*

.....

*Article 4. Agricultural, General, District A-1.*

.....

**Sec. 22-4-6. Off-street parking.<sup>2</sup>**

Off-street parking shall conform to Article 26: *Off-Street Parking and Loading Spaces* of this chapter.

**Sec. 22-4-9.1. Definitions.**

For the purpose of sections 22-4-9 through 22-4-9.4, the following terms shall have the meaning indicated:

- (1) Livestock includes all domestic or domesticated *animals, including but not limited to: cattle, sheep, lambs, hogs, goats, horses, poultry, and furbearing animals.* ~~÷ bovine animals, such as cattle; equine animals, such as horses; ovine animals, such as sheep; and porcine animals, such as hogs.~~
- (2) Intensive livestock, dairy or poultry facility means a livestock, dairy or poultry operation where, for a period of 45 consecutive days or more, 300 animal units are closely confined and not free-ranging, and are fed in the area of confinement. For the purpose of this article, 300 animals units shall be equivalent to any of the following, or any combination thereof where the animals are confined in one location:
  - Livestock: 300 slaughter or feeder cattle
  - ~~livestock~~ Livestock: 750 swine each weighing over 55 pounds
  - ~~livestock~~ Livestock: 150 horses
  - ~~livestock~~ Livestock: 3,000 sheep, lambs, or goats ~~or lambs~~
  - Livestock: 16,500 furbearing animals such as rabbits or chinchilla
  - ~~dairy~~ Dairy: 200 mature dairy cows (whether milked or dry cows)

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<sup>2</sup> For state law granting localities the authority to regulate off-street parking, see Code of Va., § 15.2-2279.

~~poultry~~ Poultry: 16,500 turkeys  
~~poultry~~ Poultry: 30,000 laying hens or broilers

- (3) Intensive livestock, dairy or poultry structure means a building, structure or other improved area used in the operation of an intensive livestock, dairy or poultry facility; including, but not limited to, litter storage sites, incinerators, manure storage sites, poultry houses, poultry disposal pits, or dead poultry cold storage chests. The term shall not include structures that are used only indirectly in the operation of the facility.
- (4) Operator means any person who operates an intensive livestock, dairy or poultry facility, or the land on which it is located.
- (5) Poultry means any domestic or domesticated fowl raised for meat or eggs; including, but not limited to, chickens and turkeys.
- (6) Existing intensive livestock, dairy or poultry structure means an intensive livestock, dairy or poultry structure that has been in operation for one year within the five years immediately preceding the date on which a building or zoning permit is sought for a dwelling.

**Sec. 22-4-9.2. Setbacks.**

- (1) Except as otherwise expressly provided in this section, each intensive livestock, dairy or poultry structure shall be set back 300 feet from *any* property line.
- (2) Any dwelling not owned by the operator shall be set back from any existing intensive livestock, dairy or poultry structure as follows:
  - (a) If the dwelling is an Agricultural (A-1) district, 300 feet;
  - (b) If the dwelling is in a residential district, 600 feet.
- (3) Each intensive livestock , dairy or poultry structure shall be setback at least 300 feet from any property line, at least 200 feet from the right-of-way of any secondary road, and at least 300 feet from the right-of-way of any primary highway.
- (4) Each intensive livestock, dairy or poultry structure shall be setback at least 1,000 feet from any incorporated town, public school, place of worship, public water intake from a stream or river and from the boundary of any adjacent residential district.

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**Sec. 22-4-9.4. Nutrient management plan.**

After the effective date of this section, no intensive livestock, dairy or poultry facility for which the Commonwealth of Virginia requires a nutrient management plan shall commence operation until such plan has been approved by the Virginia Department of Conservation and

Recreation, ~~or by the Virginia Cooperative Extension Service,~~ or by a person certified or employed by the *Virginia Soil and Water Conservation Board* or the Commonwealth as a nutrient management planner, *in accordance with 4VAC50-85-10 et seq, "Nutrient Management Training and Certification Regulations."*

If the nutrient management plan provides for off-site disposal of waste, the operator shall provide, as a part of the plan, written documentation of an agreement with the receiver of the waste produced at his facility, or affidavit, sworn and subscribed before a notary public, that states his intention to dispose of waste through sale in a retail establishment or otherwise marketing to consumers. Documentation shall specify the duration of the agreement and the nature of the application or use of the waste. A nutrient management plan containing such an agreement shall be valid only as long as the agreement remains in force and shall be reviewed whenever such agreement expires or is terminated. If such an agreement is terminated before its expiration date, the operator shall notify the zoning administrator within fifteen days of termination.

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***Article 7. Residential, Planned Community, District R-3.***

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**Sec. 22-7-4. Required information on Preliminary Master Plan.**

~~(a)~~ The location of the open areas which shall comprise not less than twenty-five (25) percent of the whole. The open areas shall include parks, recreation facilities, residential clubhouse grounds, lakes, trails, and land or water left in undisturbed natural condition and unoccupied by building lots, structures, streets and roads and parking lots. This area may be used for active recreation facilities identified in Section 22-7-12. The open areas of the tract shall be delineated due to their noteworthy features and value to the continued rural character of the county, including, but not limited to, lands with high scenic, open space and water quality protection values including riparian corridors and wildlife habitat; high environmental sensitivity such as steep slopes, wetlands, floodplains; high recreational value and/or having noteworthy historical, archaeological or cultural features.

~~(b)~~ *The Preliminary Master Plan shall contain the following information:*

~~(c)~~ (A) ~~The plan shall also indicate the~~ *The general location of the various types of land uses, including the general location of any village centers, and the residential density classifications of each residential area;*

~~(d)~~ (B) ~~The areas~~ *Areas designated for residential development, with maximum proposed number of units, density calculations, and plot plans of typical units provided;*

~~(e)~~ (C) ~~The areas~~ *Areas designated for commercial and/or institutional development, with maximum proposed square footages and floor area ratios indicated. The location of all buildings and improvements, and their proposed use, other than single-family dwellings, and the location of any public buildings shall be shown;*

- (f) ~~(D)~~ *The street ~~Street~~ layout, with indication of which streets are to be dedicated to public use and which are to be held in private ownership, and a brief description of maintenance arrangements; street functional classification; and proposed street cross-sections;*
- (g) ~~(E)~~ *The pedestrian ~~Pedestrian~~ and bicycle facilities, including sidewalks and trails, with proposed cross-sections;*
- (h) ~~(F)~~ *The orientation ~~Orientation~~ of the Preliminary Master Plan to the surrounding community by extending the overall development and preservation pattern, tree protection and buffers, general building design, covenants and restrictions;*
- (i) ~~(G)~~ *The general location of all public and private roads ~~shall be indicated on the plan;~~*
- (j) ~~(H)~~ *The adequate ~~Adequate~~ provisions for general sewer, storm drainage, and water supply ~~shall be shown on the plan;~~ and*
- (k) ~~(I)~~ *The Preliminary Master Plan shall also demonstrate ~~Demonstrate~~ its compliance with the county's Comprehensive Plan.*

**Sec. 22-7-5. Development -- Final Master Plan ~~plan~~.**

(a) *Submitting the Final Master Plan: ~~Requirements for Submittal~~*

- (1) ~~A~~ *The applicant shall submit five ~~Five~~ (5) copies of the final Master Plan to the Planning Director. The final plan shall ~~have been~~ be prepared by a licensed surveyor, engineer, landscape architect, or architect.*
- (2) ~~B~~ *The ~~Final~~ final Plans shall be consistent with the Preliminary Master Plan as approved. The applicant may vary from the approved Preliminary Master Plan to any degree if it does not vary the basic concept or character of the development.*
- (3) ~~C~~ *Any departure from the approved Preliminary Master Plan ~~must~~ shall be approved by the Planning Commission.*

(b) *The Final Master Plan must contain: ~~Requirements:~~*

- (1) All the Preliminary Master Plan Information;
- (2) *The location of the existing ~~Existing~~ and proposed property lines;*
- (3) *The plans and specifications ~~Plans and Specifications~~ for roads, pedestrian facilities, parking areas, Stormwater Management facilities, water and sewer system, active recreational facilities, and any other infrastructure elements proposed and shall be in compliance with Virginia Stormwater Management Regulations;*

- (4) ~~Any and all proposed Homeowners Association documents for review and approval by the County Attorney—approval;~~ if any roads, open space, or other facilities are proposed for ownership by such association.;
- (5) ~~A final Final~~ plat meeting the requirements of Chapter 19: *Subdivisions of this code*.;
- (6) A Site Development Plan for *any* commercial, institutional, multi-family meeting the requirements of Chapter 22-23: *Site Developments Plans of this code*.;
- (7) A ~~performance Performance~~—bond for improvements as provided in Chapter 19: *Subdivisions of this code*.;
- (8) ~~The applicant shall furnish with a Final Plan a~~ A proposed deed of easement including restrictions safeguarding the permanent use of open areas and preventing encroachment thereupon and any deeds for any land dedicated to the county as part of the Master Plan for *review and approval* by the County Attorney.;

~~After When~~ the Final Plan and deed of dedication ~~shall~~ have been approved by both the Planning Director and the County Attorney as being in conformity with this chapter and the Preliminary Master Plan, the Final Plan shall be approved for recordation and recorded. Thereafter, no modification may be made in any Final Plan except by an amended Final Master Plan submitted as provided for the original Final Master Plan.

**Sec. 22-7-12. Recreation Requirements.**

Active Recreation facilities may be located within the required open space and shall be provided as follows unless specifically exempted by an approved proffer:

Group A

Bicycling, walking, fitness, and equestrian trails, open play area (minimum ½ ~~area~~ acre), sitting area, picnic table units, tot lot equipment, community gardens that may be located within the required open space

Group B

Picnic shelter (3-4 picnic table units with grill), tennis court(s), multi-use court, active playground with equipment.

Group C

Community Center/Clubhouse/ Fitness Center, Indoor Swimming Pool, Athletic fields for private unorganized activities (Baseball, football/soccer) – minimum 2 acres

< ≤14 Residential Units Group A – Choice of two or more  
Minimum of one acre of recreation area

15-60 Residential Units Group A – Choice of two or more  
Group B – Choice of two or more

	Minimum of three acres of recreation area
61- 100 residential units	Group A – Choice of three Group B – Choice of three Minimum of six acres of active recreation
101 + residential units	Group A- Choice of three Group B – Choice of three Group C – Choice of one Minimum of eight acres of active recreation

.....  
**Article 9. Business, General, District B-1.**  
 .....

**Sec. 22-9-2. Use Regulations.**

*In Business, General, District B-1, structures to be erected or land to be used shall be for one or more of the following uses, together with ordinary and necessary accessory uses, and no others.*

**Sec. 22-9-3. Requirements for permitted uses.**

All buildings, structures and uses in the B-1 District shall be subject to the provisions of Article 23: *Site Development Plans of this code.*

.....  
**Article 10. Business, Convenience, District B-C.**  
 .....

**Sec. 22-10-5. Requirements for permitted uses.**

All buildings, structures and uses in the ~~BC~~ B-C District shall be subject to the provisions of Article 23: *Site Development Plans of this code.*

.....  
**Article 11. Industrial, Limited, District I-1.**  
 .....

**Sec. 22-11-2. Use Regulations.**

*In Industrial, Limited, District I-1, structures to be erected or land to be used shall be for one or more of the following uses, together with ordinary and necessary accessory uses, and no others.*

.....  
**Article 12. Industrial, General, District I-2.**  
 .....

**Sec. 22-12-9. ~~Off-street~~ Off-Street parking.**

Off-street parking shall conform with Article 26: *Off-Street Parking and Loading Spaces* 17 of this chapter.

.....  
**Article 13. ~~Mobile~~ Manufactured Home Park, District MHP.**

**Sec. 22-13-1. Statement of intent.**

This district is intended to accommodate ~~mobile~~-*manufactured* home parks with lots for rent exclusively. This district is based on the premise that the demand for ~~mobile~~-*manufactured* homes can best be supplied by ~~mobile~~-*manufactured* home parks. The following regulations are designed to provide an attractive and harmonious environment for ~~mobile~~-*manufactured* home dwellings, with all amenities normally found in a substantial residential neighborhood.

**Sec. 22-13-2<sup>3</sup>. Use regulations.**

In ~~Mobile~~ *Manufactured* Home Park, District MHP, only one *mobile or manufactured* home and its accessory uses and structures shall be permitted on each minimum lot area. Structures to be erected or land to be used shall be for some combination of the following uses. *Manufactured homes used pursuant to this section shall comply with the Flood Protection subsection of this Chapter found in Section 22-17-8A et seq.* (Ord. 3-15-06; Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

**Sec. 22-13-3. Area regulations.**

- (A) The minimum area for each ~~mobile~~ *manufactured* home park shall be five (5) acres. (Minimum number of spaces completed and ready for occupancy before first occupancy is permitted shall be ten (10)).
- (B) Area. The minimum lot area of each individual *mobile or manufactured* home lot shall be six thousand (6000) square feet.

**Sec. 22-13-4. Setback regulations.**

- (A) ~~Mobile~~ *Manufactured* home parks shall be located fifty (50) feet or more from any street right-of-way but not less than seventy-five (75) feet from the center line of the street. Lots fronting streets within ~~mobile~~ *manufactured* home parks (interior lots) shall conform with subsection (b) below. The foregoing notwithstanding, every ~~mobile~~ *manufactured* home within any such ~~mobile~~ *manufactured* home park shall be set back from any abutting public road not less than the setback required for the property abutting the ~~mobile~~ *manufactured* home park across such public road.
- (B) No ~~mobile~~ *manufactured* home lot shall be placed less than twenty-five (25) feet from any adjoining property line.
- (C) No ~~mobile~~ *manufactured* home shall be placed less than ten (10) feet from any lot or within 25 feet of another ~~mobile~~ *manufactured* home.

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<sup>3</sup> Editor’s Note – This section as originally adopted was misnumbered as “Sec. 22-13-1.” This clerical error has been corrected by the editor.

**Sec. 22-13-5. Frontage regulations.**

The minimum frontage for each ~~mobile~~ *manufactured* home lot shall be sixty (60) feet with a minimum 30 feet street frontage.

**Sec. 22-13-6. Required improvements within lots.**

- (A) Markers for ~~mobile~~ *manufactured* home lots. Every ~~mobile~~-*manufactured* home lot shall be clearly defined on the ground by permanent markers. There shall be posted and maintained in a conspicuous place on each lot a number corresponding to the number of each lot as shown on the site plan submitted so that each lot may be easily identified.
- (B) Streets. All streets, both public and private, serving ~~mobile~~ *manufactured* home lots, shall conform to the construction standards of the Virginia Department of Transportation. Curb and gutters are encouraged; however, in the event that they are not provided, adequate drainage facilities shall be provided.
- (C) Parking spaces. In each ~~mobile~~ *manufactured* home park, parking spaces shall be provided at the rate of at least two car spaces for each ~~mobile~~*manufactured* home lot. Space for one car of the required two car spaces shall be provided upon the lot, but if not so provided, in parking bays located convenient to such lots. Each such parking space shall be not less than ten feet wide and twenty feet deep, shall be surfaced for its entire area with a durable, hard surface material, suitable for all weather use, and shall have unobstructed access to a public street or highway. No parking space shall be more than three hundred (300) feet from the ~~mobile~~-*manufactured* home lot which it serves.
- (D) Water supply. An adequate supply of water approved by the State Health Department shall be furnished from a public water supply system or from a central water system conforming to all applicable laws, regulations, resolutions, and ordinances, with water connections located on each ~~mobile~~ *manufactured* home lot. No drinking water containers or fountains shall be located in any room housing toilet facilities. All water lines shall be made frost-free.
- (E) Sewerage facilities. In each ~~mobile~~ *manufactured* home park, all waste or waste water from a faucet, toilet, tube, shower, sink, slop-sink, drain, washing machine, garbage disposal unit or laundry shall empty into one or more public or central sewer systems approved by the Fluvanna County Health Department.
- (F) Garbage and trash disposal. Each lot within a ~~mobile~~ *manufactured* home park shall be provided with at least one tight-fitting, closed-top garbage or trash container, and collection and disposal shall be provided at a frequency to assure it will not overflow.
- (G) Lighting and electric receptacle outlets. Public areas of ~~mobile~~ *manufactured* home parks shall be adequately lighted so as to permit safe movement of vehicles and pedestrians at night. All exterior lights in each park shall be located and when necessary shielded so as to

prevent direct illumination of sleeping areas. At least one grounded type receptacle outlet shall be provided each lot.

- (H) Utilities. All utility service shall be underground to each lot.
- (I) Recreational areas. There shall be provided a minimum of 30,000 square feet of recreational area, exclusive of required setback and yard requirements, per each thirty (30) ~~mobile~~ *manufactured* home lots or multiple or fraction thereof.
- (J) Additions to ~~mobile~~ *manufactured* homes. No permanent or semi-permanent structure shall be affixed to any ~~mobile~~ *manufactured* home as an addition to such mobile home. The prohibition herein against any addition or accessory to a ~~mobile~~ *manufactured* home shall not apply to a canopy or awning designed for use with a ~~mobile~~ *manufactured* home, nor to any expansion unit or accessory structures specifically manufactured for ~~mobile~~ *manufactured* homes. The lot coverage of a ~~mobile~~ *manufactured* home, together with an expansion or accessory structure permitted thereto by this article shall not exceed twenty percent of the total ~~mobile~~ *manufactured* home lot area.
- (K) Height regulations. No ~~mobile~~ *manufactured* home shall exceed fourteen (14) feet in height nor shall any storage facility or other accessory structure exceed the height of any ~~mobile~~ *manufactured* home which it serves. Utilities, television antennae and radio aerials are exempt.
- (L) ~~Mobile~~ *Manufactured* home standards. Every ~~mobile~~ *manufactured* home occupied as a dwelling unit in Fluvanna County shall meet the minimum standards of the Virginia *Manufactured Home Safety Regulations and shall have been manufactured under the authority of the National Manufactured Home Construction and Safety Standards Act, Industrialized Building Unit and Mobile Home Safety Regulations*, as the same shall be in effect from time to time.
- (M) Anchorage. Every parking space for ~~mobile~~ *manufactured* homes shall be provided with devices for anchoring the unit to prevent overturning or uplift. The anchorage shall be adequate to withstand wind forces and uplift as required for buildings and structures in the Virginia Uniform Statewide Building Code.

**Sec. 22-13-7. Site plan required.**

Each ~~mobile~~ *manufactured* home park shall be subject to the provisions of Article 23: *Site Development Plans* of this chapter.

.....  
**Article 14. PLANNED UNIT DEVELOPMENT DISTRICT (PUD).**  
 .....

**Sec. 22-14-8. Density.**

- (1) The maximum residential base density permitted for individual land uses to be located in the PUD districts shall be as follows in Table 1 below.

(2) The allowable density for individual uses within the PUD District shall be calculated based on the Net Acreage of the land subject to the PUD zoning amendment application. The calculation of minimum and maximum yield for individual uses shall be based on the application of the minimum and maximum density for each use (see Table 1) to an adjusted Net Acreage. The Net Acreage reduces the gross area of the PUD land by the total of the non-qualifying land components within property. The Net Acreage = Gross Acreage - Non-Qualifying Area (acreage of the sum of the Non-Qualifying land components.) The components that comprise the Non-Qualifying areas include:

- area of existing dedicated public rights of way and easements,
- areas depicted on an adopted Official Transportation Map for future public improvements,
- area of existing land uses and structures, including platted lots, that are intended to remain as a part of the PUD project,
- areas deemed unbuildable due to geological, soils, or other environmental deficiencies,
- areas of wetlands and floodplains (as defined by FEMA 100-year floodplain or engineering study),
- area of existing ponds, stormwater management facilities, and water features that are not defined as wetlands or floodplains, and
- area of terrain with slopes in excess of thirty percent (30%).

<b>PUD District Density Regulations</b>								
<b>Community Planning Area</b>	<b>Minimum &amp; Maximum Density</b>							
	Dwelling Units <i>per</i> <i>per</i> acre for Residential – Floor Area				Ratio <i>Ratio</i> for Commercial			
	<b>Single Family</b>		<b>Townhouses</b>		<b>Multifamily</b>		<b>Commercial</b>	
	min.	max.	min.	max.	min.	max.	min.	max.
Zion Crossroads Community Planning Area		6		9		16		
Zion Crossroads Urban Development Area	4	6	6	9	12	16	0.4	
Rivanna Community Planning Area		4		6		12		
Palmyra Community Planning Area		4		6		12		
Fork Union Community Planning Area		4		6		12		
Columbia Community Planning Area		4		6		12		

Scottsville Community Planning Area	4	6	12	
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**Table 1: PUD Density Regulations**

(3) An increase in the maximum residential density for a PUD district may be permitted in the following instances:

Open Space:

If 50% or more of the gross area of a PUD is preserved as open space, then a 20% increase in density may be permitted. If 75% or more of the gross area of a PUD is preserved as open space, then a 30% increase in density may be permitted.

Affordable Housing (as defined in the Comprehensive Plan):

If between 10% and 15% of the total number of dwelling units within a PUD are reserved for affordable housing, then a 20% increase in density may be permitted. If more than 15% of the total number of dwelling units within a PUD are reserved for affordable housing, then a 30% increase in density may be permitted.

Open Space and Affordable Housing:

Density bonuses may also be permitted with a combination of both open space and affordable housing. The increase in density that may be permitted shall be based on the following combinations of open space and affordable housing:

Open Space Provided	Affordable Housing Provided	Density Bonus Permitted
50%	10-15%	35%
50%	+ >15%	45%
75%	10-15%	40%
75%	+ >15%	50%

Transfer/Purchase of Development Rights:

(Reserved for future Transfer of Development Rights/Purchase of Development Rights density bonuses)

(Ord. 8-5-09; Ord. 11-16-11)

.....  
**Article 15. SIGN REGULATIONS.**  
 .....

**Sec. 22-15-1. Statement of intent.**

The following sign regulations are established to assure compatibility of signs with surrounding land usage, to enhance the economy of the county, to protect public investment in streets and highways, to promote the safety and recreational value of public travel, *to minimize possible adverse effects of signs on nearby public and private property*, to preserve natural beauty, *to protect the environment from litter and refuse, including abandoned signs*, and to

identify, direct and provide necessary information *efficiently* to motorist and pedestrians, *to decrease distraction of motorists and pedestrians by limiting confusing, distracting and obsolete signs, and to reduce obstruction of the roadway*. No sign shall be permitted erected or used in the county, except as permitted in this article. (Ord. 6-16-10)

**Sec. 22-15-2. General provisions.**

(1) Restricted Signs – The following types of signs are prohibited in all zoning districts:

- (a) Flashing signs;
- (b) Inflatable signs;
- (c) Moving signs;
- ~~(d) Off-premise signs;~~ *Intentionally omitted;*
- (e) Pennant signs;
- (f) Portable signs;
- (g) Roof signs;
- (h) Any sign that obstructs any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress or egress for any building, as required by law;
- (i) Any sign which imitates or resembles any official traffic sign, signal or device, or uses the words “Stop” or “Danger” in close proximity to any public right-of-way, or interferes with any other public traffic sign;
- (j) Signs which produce noise or any visible smoke, vapor, particles, or odor;
- (k) Signs which advertise any activities which are illegal under state or federal law or regulations in effect at the location of such sign or at the location of such activities; and
- (l) Signs that violate state or federal laws, whether or not identified in this ordinance as being permitted.

(2) Exempt Signs – *Exempt signs shall be of reasonable size and no larger than the largest permitted signs in the zoning district, unless otherwise specified in this Code. Exempt signs shall be legible, and shall be reasonably maintained in good repair, and in safe, neat, and clean condition. Any temporary exempt sign, defined in Sec. 22-22-1 of this Code, shall be posted a reasonable time before, but in no event greater than thirty (30) days prior to and shall be removed a reasonable time after, but in no event greater than ten (10) days after the event, election, production, group, occurrence, speaker, program or seasonal activity to*

*which the temporary sign refers.* The following types of signs, as defined in and subject to the regulations in Sec. 22-22-1, are exempt from the sign permit requirements in all zoning districts.:

- (a) Auction signs;
- (b) Banner signs;
- (c) Construction signs;
- (d) Directional signs;
- (e) Estate signs;
- (f) Public signs;
- (g) Real estate signs;
- (h) Temporary signs;
- (i) Temporary directional signs;
- (j) Warning signs; and
- (k) Window signs.

### (3) Illuminated Signs

- (a) Signs may be illuminated, either internally or externally, as permitted by this ordinance, provided that the illumination is fully shielded and directed at the sign and not in a manner as to cause a traffic hazard.
- (b) Where a permit is required, the permit shall not be issued until the location and illumination of the sign has been approved by the zoning administrator, or designee.
- (c) No light from any illuminated sign shall cause direct glare onto any adjoining piece of property, right-of-way, or building other than the building to which the sign applies to.
- (d) The copy of electronic message signs may not flash, scroll, move, or change at timed intervals of less than 20 seconds.
- (e) All electronic message signs must be equipped with an automatic dimmer that controls the intensity of the light source. The intensity of light allowed for all illuminated signs shall be 85 percent by day and 50 percent at night.

- (f) All electronic message signs must be turned off at the close of business, unless displaying time or temperature.

(4) Setbacks

- (a) Signs shall be exempt from setback requirements in all zones, provided that no sign shall be located as to interfere with vehicular sight distances at intersections or to create a safety hazard.
- (b) Signs shall not be located within any public right-of-way, unless approved by the Virginia Department of Transportation.

(5) Sign Area

- (a) The sign area shall be measured as the area of the sign face which includes the advertising surface and any framing, trim, or molding. Two sided sign faces shall be counted as a single sign face.
- (b) Area not included – the sign area shall not include any of the support structure or architectural features that are not an integral part of the sign which may consist of landscaping, building structural form complementing the site in general.

(6) Sign Height

- (a) The sign height shall be measured as the vertical distance from the normal grade directly below the sign to the highest point of the sign or sign structure, whichever is higher and shall include the base and any support structure.
- (b) Signs shall not exceed six (6) feet in height, except as otherwise permitted by this article.

(Ord. 6-16-10)

**Sec. 22-15-2.1. *Repealed.* Political signs on privately owned property.**

- ~~(1) No political sign may be larger than the largest other sign allowed in the zoning district.~~
- ~~(2) No political sign may be illuminated if it is larger than a business sign allowed in the zoning district.~~
- ~~(3) Every political sign that is directed toward a particular election issue or candidate may be erected not more than 60 days before such election and shall be removed and lawfully disposed of not more than 10 days after such election. (Ord. 6-16-10)~~

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**Sec. 22-15-4. Administration.**

(1) Permit Requirements – Except as otherwise provided herein, no sign shall be erected, altered, refaced or relocated unless a sign permit has been approved by the Zoning Administrator. Where there is a discrepancy between Fluvanna County and the Virginia Department of Transportation sign regulations, the more stringent shall apply. Where the Fluvanna County sign regulations do not recognize a particular type of sign, the Virginia Department of Transportation regulations shall apply.

(2) Maintenance and Removal

- (a) All signs shall be constructed in compliance with the ~~International~~ *Uniform Statewide Building Code*, as adopted by the Virginia State Code.
- (b) All signs and components thereof shall be *legible and shall be* maintained in good repair and in a safe, neat, and clean condition.
- (c) The Zoning Administrator may cause to have removed or repaired immediately any sign which, in the Zoning Administrator’s opinion, has become insecure, in danger of falling, or otherwise unsafe, and, as such, presents an immediate threat to the safety of the public. If such action is necessary to render a sign safe, the cost of such emergency removal or repair shall be at the expense of the owner or lessee thereof.
- (d) Any sign that is obsolete, because of discontinuance of the subject activity or any other reason that would cause the sign to be obsolete, shall be removed within ~~thirty (30)~~ *ten (10)* days.
- (e) Any sign located on property, which becomes vacant and is unoccupied for a period of two (2) years or more shall be deemed abandoned. An abandoned sign shall be removed by the owner or lessee of the property. If the owner or lessee fails to remove the sign, the Zoning Administrator shall give the owner fifteen (15) days written notice to remove it. Upon failure to comply with this notice, the Zoning Administrator may initiate such action as may be necessary to gain compliance with this provision.  
(Ord. 6-16-10)

***Sec. 22-15-4.1. “Going out of business” and “Special” sales.***<sup>4</sup>

- (A) *All persons must obtain a permit from the county in order to advertise or conduct a sale for the purpose of discontinuing a retail business, or to modify the word “sale” in any advertisement with the words “going out of business” or any other words which tend to insinuate that the retail business is to be discontinued and the merchandise liquidated.*
- (B) *The applicant shall submit an application for a permit to the county administrator, or his designee, which shall include the following:*

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<sup>4</sup> For state law requiring the county to oversee and permit such sales, see Code of Va., §§ 18.2-223, 18.2-224.

- (1) *A statement of the purpose of the sale (i.e. liquidation of assets, terminating retail business);*
- (2) *An inventory including the kind and quantity of all goods to be offered for sale during the sale;*
- (3) *A copy of any proposed advertisements which may be posted or published in connection with the special sale; and*
- (4) *A fee of \$65 for the processing of the permit, which shall not be refunded.*

*(C) Upon receipt of the complete application and fee, the county administrator or his designee, shall issue a special sale permit which shall be valid for a maximum of sixty (60) days. An extension of the sale or additional sale shall require an additional permit application and fee as described above. A maximum of one permit beyond the initial sixty (60) day permit may be granted solely for the purpose of liquidating only those goods contained in the initial inventory list which remain unsold.*

*(D) The permittee shall prominently display the permit number and effective dates of the special sale on any and all advertisements for such sale. The permittee may not advertise along with its special sale any goods not listed in the inventory provided to the county in its application.*

*(E) The permittee may not commingle or add to the special sale any goods not listed in the inventory list provided to the county. Upon proof that the permittee has commingled or added goods not listed in the inventory list to the special sale, the county may revoke the special sale permit.*

*(F) The county administrator's designee shall inspect the advertisement and conducting of the special sale to insure it is being advertised and conducted in conformity with the permit.*

*(G) Advertising or conducting a special sale without a permit, as required by this section, shall be punishable as a Class 1 misdemeanor.*

#### **Sec. 22-15-5. Non-conforming signs.**

(1) No nonconforming sign shall be enlarged nor be worded so as to advertise or identify any use other than that in effect at the time it became a nonconforming sign.

(2) Signs lawfully existing on the effective date of this ordinance or prior ordinances, which do not conform to the provisions of this ordinance, and signs which are accessory to a nonconforming use shall be deemed to be nonconforming signs and may remain except as qualified below. Such signs shall not be enlarged, extended or structurally reconstructed or altered in any manner, except a sign face may be changed so long as the new face is equal to or reduced in height and/or sign area. The burden of establishing the nonconforming status of signs and of the physical characteristics/location of such signs shall be that of the owner of the property. Upon

notice from the Zoning Administrator, a property owner shall submit verification that sign(s) lawfully existed at time of erection. Failure to provide such verification shall be cause for order to remove sign(s) or bring sign(s) into conformance with the current ordinance.

- (3) Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign; provided, however, that no nonconforming sign which has been declared by the Zoning Administrator to be unsafe because of its physical condition, as provided for in this ordinance, shall be repaired, rebuilt or restored unless such repair or restoration will result in a sign which conforms to all applicable regulations.
- (4) No nonconforming sign shall be moved for any distance on the same lot or to any other lot unless such change in location will make the sign conform to the provisions of this article.
- (5) If a nonconforming sign is removed, the subsequent erection of a sign shall be in accordance with the provisions of this article.
- (6) A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding fifty (50) percent of its replacement value may be restored within two (2) years after such destruction or damage but shall not be enlarged in any manner. If such sign is so destroyed or damaged to an extent exceeding fifty (50) percent, it shall not be reconstructed except for a sign, which would be in accordance with the provisions of this article.
- (7) A nonconforming sign that is changed to, or replaced by, a conforming sign shall no longer be deemed nonconforming, and thereafter such sign shall be in accordance with the provisions of this article.
- (8) A nonconforming sign shall be removed if the structure to which it is accessory is demolished or destroyed to an extent exceeding fifty (50) percent of its appraised value.
- (9) The ownership of the sign or the property on which the sign is located shall not, in and of itself, affect the status of a non-conforming sign.
- (10) *A nonconforming sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two years. After the two year period, the zoning administrator shall make a reasonable attempt to contact the property owner. If the property owner refuses to remove the abandoned sign, the county's agents or employees may enter the property upon which the sign is located and remove such sign and charge the cost of removal to the owner of the property. Nothing herein shall prevent the county from applying to the appropriate courts for an order requiring removal of the abandoned nonconforming sign by injunction or other appropriate remedy.*<sup>5</sup>  
(Ord. 6-16-10)

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<sup>5</sup> For state authority as to the removal of abandoned nonconforming signs, see Code of Va., § 15.2-2307.

*Article 16. Nonconforming Uses.*

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**Sec. 22-16-8. Repair and restoration after damage.**

- (A) Where in any zone, a conforming structure devoted to a non-conforming activity or a nonconforming structure is destroyed or damaged in any manner, whether wholly or partially, either may be repaired or restored provided such repair or restoration is started within twelve months from the date of damage or partial destruction. Such restoration shall not exceed 200% of its size in square footage when destroyed. Any such expansion exceeding 100% of the original structure shall conform with the yard requirements of this ordinance. *Any such repair or restoration must be carried out in compliance with the Uniform Statewide Building Code and Fluvanna County flood plain regulations, as required by the Code of Virginia § 15.2-2307.*
  
- (B) ~~B. RESERVED~~ *If a nonconforming structure is in an area under a federal disaster declaration and the structure has been damaged or destroyed as a direct result of the conditions that gave rise to the federal disaster declaration, then it may be repaired or restored for an additional two (2) years after the time permitted in subsection (a) above.*
  
- (C) ~~C.~~ *Any manufactured mobile-home which was lawfully in existence in the county on the effective date of this ordinance may be replaced by another mobile home, subject to the following:*
  - (1) The replacement *manufactured mobile-home* shall contain the same or greater floor area as the *manufactured mobile-home* being replaced;
  
  - (2) The replacement *manufactured mobile-home* shall comply with all building and construction codes in the Commonwealth of Virginia applicable to *manufactured mobile-homes*;
  
  - (3) The replacement *manufactured mobile-home* shall be located on the same parcel so as to comply with all yard and setback requirements of the ordinance unless the dimensions of the parcel are such that such compliance is infeasible, in which case the replacement *manufactured mobile-home* shall be located substantially in the same location as the *manufactured mobile-home* being replaced;
  
  - (4) The *manufactured mobile-home* being replaced shall be removed from the parcel no later than *ninety (90) days* after the replacement *manufactured mobile-home* is placed on the parcel.
  
  - (5) There shall be no dual occupancy when such *manufactured mobile-homes* are being replaced.
  
  - (6) The replacement *manufactured mobile-home* shall be located on the parcel not more than *ninety (90) days* after removal of the *manufactured mobile-home* to be replaced.

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**Article 17. General Provisions.**

**Sec. 22-17-1. Zoning permits.**

- (A) Buildings or structures shall be started, reconstructed, or enlarged only after a zoning permit has been obtained from the administrator or his designated agent.
  
- (B) Each application for a zoning permit shall be accompanied by a site plan which complies with the provisions of Article 23: *Site Development Plans* of this chapter. In the case of any building, structure or use which is exempt from the provisions of Article 23, a sketch plan shall be submitted. Each such sketch plan shall show the property in such detail as the administrator may deem necessary to ensure compliance with this chapter. Except as may otherwise be required in a particular case, such sketch shall show the size and shape of the parcel of land on which the proposed building, structure or use is to be established, the nature of the proposed use of the building or land, and the size, shape and location of such building, structure or use with respect to the property lines of said parcel of land and to the right-of-way of any street or highway adjoining said parcel of land, including all setbacks and required yards as prescribed by this chapter and by all applicable deed restrictions known to the applicant. *The sketch plan shall also include any* ~~Any~~ *other information which the administrator may deem necessary for construction of the application* ~~may be required~~. If the proposed building, structure or use is in conformity with the provisions of this chapter, a permit shall be issued to the applicant by the administrator.
  
- (C) Activity for which a zoning permit was issued must commence within twenty-four months or such permit shall expire and be of no further effect.

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**Sec. 22-17-6. Widening of highways and streets.**

Whenever there shall be plans in existence *for* a project in the Secondary or Primary Six Year Plan that has been approved by the Virginia Department of Transportation and the governing body for the widening of any street or highway, the administrator may require additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right of way, in order to preserve and protect the right of way for such proposed street or highway widening.

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**Sec. 22-17-9. Conditional rezoning.<sup>6</sup>**

- (A) As part of a rezoning or amendment to the zoning map, the owner of any property subject to any application for such rezoning or amendment to the zoning map, may voluntarily proffer, in writing submitted to the zoning administrator prior to a public hearing before the governing body, reasonable conditions for such rezoning or amendment to the zoning map, in addition to the regulations provided for the zoning district by this chapter, provided that such proffered conditions comply in full with all provisions of Sections 15.2-2297 and 15.2-2298 of the Code of Virginia.

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<sup>6</sup> *As to state law regarding conditional rezoning, see Code of Va., § 15.2-2296 et seq.*

- (B) Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions; however, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance. No amendment or variation of conditions created pursuant to this section shall take effect until after a public hearing before the governing body advertised in accordance with Section 15.2-2204 of the Code of Virginia. Except as the governing body may expressly provide in a particular case, each such condition shall be deemed to be integral to, and nonseverable from, the rezoning or amendment to the zoning map to which it applies.
- (C) No proffer for the dedication of real property or payment of cash shall be accepted unless the county has adopted a capital improvement program pursuant to Section 15.2-2239 of the Code of Virginia. No such dedication or cash payment shall be made until the facilities for which such property is dedicated or cash is tendered are included in the capital improvement program, provided that nothing herein shall prevent the county from accepting proffered conditions which are not normally included in such capital improvement program. If such proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered.
- (D) In the event proffered conditions include a requirement for the dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendment to the zoning map for the property subject to such conditions, nor the conditions themselves, nor any amendments to the text of the ordinance with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to such property shall be effective with respect to such property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.
- (E) Nothing in this section shall be construed to affect or impair the authority of the governing body to:
- ~~(a)~~ (1) Accept proffered conditions which include provisions for timing or phasing of dedications, payments or improvements; or
  - ~~(b)~~ (2) Accept or impose valid conditions pursuant to subsection (A)(3) of Section 15.2-2286 of the Code of Virginia or other provision of law.
- (F) The zoning map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The zoning administrator shall keep in his office and make available for public inspection a Conditional Zoning Index. The Index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district or zone. The zoning administrator is vested with all necessary authority on behalf of the governing body and pursuant to Section 15.2-2299 of the Code of Virginia to administer and enforce conditions attached to a rezoning or amendment to a zoning

map, though all decisions made pursuant to this section are subject to appeal to the governing body according to the procedures described in Section 15.2-2301 of the Code of Virginia.

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**Sec. 22-17-15. Special exception for placement of ~~mobile~~ a manufactured home.**

The zoning administrator may approve placement of a *manufactured* ~~mobile~~ home in the event that a residence is destroyed or made unlivable by fire, flood, wind, or other natural causes, provided that placement shall be for a period not longer than 12 months from the date of occurrence of the event, and also provided that written approval is obtained from the respective property owners association, if any.

**Sec. 22-17-16. Special use permit for power production plants.**

A power production plant may be constructed pursuant to Section 22-4-2.2 and Section 22-17-4 of this chapter, upon showing by the applicant of the following:

(1) The proposed location for the power plant is supported by a clear dependence upon the confluence of utilities necessary for the operation of the power production plant and the transmission of the electricity the plant generates;

(2) The proposed power plant will not be of substantial detriment to adjacent property and the general character of the district will not be changed as a result of its operation. This shall be accomplished, in part, by meeting the following minimum criteria:

(a) The proposed site shall be a minimum of 300 acres and allow for at least 87% of the property to be left as open space;

(b) The proposed site features natural vegetation or topographical features that provide for ample perimeter screening and buffering to minimize any visual or other impacts on adjacent property;

(c) The proposed location has adequate access to the road system and shall not create or exacerbate traffic congestion;

(3) In addition to meeting the minimum site-related criteria listed in (a), (b) and (c) above, the design of the proposed electrical power production plant shall be subject in all respects to the provisions of this chapter except as listed in (a) through (e), below. These exceptions shall be deemed to be compatible with the general character of the district and provide further protection of adjacent property from potential adverse impacts:

(a) The height of any buildings or structures shall not exceed the lesser of 145 feet above ground level or the height of the tallest chimney as determined by paragraph (b) below;

(b) The height of any chimney shall not exceed the lesser of 145 feet above ground level or the height determined by "good engineering practice" as

determined by the State Air Pollution Control Board or the Department of Environmental Quality pursuant to applicable regulations addressing stack heights;

(c) The amount of impervious surface coverage shall be thirteen per cent (13%) or less, provided that storm water detention ponds or reservoirs shall be considered pervious surface(s);

(d) Any buildings or structures over *twelve* (12) feet in height, ~~other than public utility structures subject to the provisions of Section 22-17-14 of this chapter,~~ shall be located a minimum of 300 feet distant from adjoining property lines or edge of road rights-of-way;

(e) There shall be a minimum of 300-foot wide vegetated buffer around the development which, in all other respects, conforms to the County landscaping requirements to be reviewed and approved along with the other requirements of a site development plan;

(4) In addition to obtaining zoning approval from Fluvanna County, the proposed power plant also will obtain, and maintain, valid permits as required by all other regulatory bodies of the state and federal governments.

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**Article 18. Provisions for Appeal and Variance.**

**Sec. 22-18-1. Board of zoning appeals.<sup>7</sup>**

(A) A board consisting of five (5) members shall be appointed by the Circuit Court of Fluvanna County. *Members of the board shall be residents of Fluvanna County.* Members of the board may receive such compensation as may be authorized by the governing body. Members shall be removable for cause by the appointing court after hearing held after at least fifteen (15) days' notice. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

(B) The term of office shall be for five (5) years, except that of the first five (5) members appointed, one (1) shall serve for five (5) years, one (1) for four (4) years, one (1) for three (3) years, one (1) for two (2) years and one (1) for one (1) year. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his successor is appointed and qualifies. Members of the board shall hold no other public office in the county, except that one of the five appointed members may be an active member of the planning commission.

(C) Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has a legal interest.

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<sup>7</sup> As to state law authorizing the formation of the county's board of zoning appeals, see Code of Va., § 15.2-2308.

(D) The board shall choose annually its own chairman and vice chairman who shall act in the absence of the chairman. The board may elect as its secretary either one of its members or a qualified individual who is not a member of the board. A secretary who is not a member of the board shall not be entitled to vote on matters before the board.

**Sec. 22-18-1.1. *Ex parte communications and proceedings.***<sup>8</sup>

(A) *The non-legal staff of the governing body may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. The applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. If any ex parte discussion of facts or law does occur, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication and the identity of the individuals involved in the communication. For the purposes of this section, regardless of whether all parties participate, ex parte communications shall not include (i) discussions as part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner or his agent or attorney are all invited.*

(B) *Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the board, shall be made available without cost to such applicant, appellant or other person aggrieved under Virginia Code Section 15.2-2314, as soon as practicable thereafter, but no more than three (3) business days after providing such materials to a member of the board. If the applicant, appellant or other person aggrieved under Virginia Code Section 15.2-2314 requests additional documents or materials be provided by the locality other than those materials provided to the board, such request shall be made in accordance with the FOIA requirements in Virginia Code Section 2.2-3704. Any such materials furnished to a member of the board shall also be made available for public inspection as required by Virginia Code Section 2.2-3707(F).*

(C) *For the purposes of this section, “non-legal staff of the governing body” means any staff who is not in the office of the county attorney, or for the board, or who is appointed by special law. Nothing in this section shall preclude the board from having ex parte communications with any attorney or staff or any attorney where such communication is protected by attorney-client privilege or other similar privilege or the protection of confidentiality.*

(D) *This section shall not apply to cases where an application for a special exception has been filed pursuant to this chapter.*

**Sec. 22-18-2. Powers of the Board of Zoning Appeals.**<sup>9</sup>

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<sup>8</sup> As to state law provisions regarding board of zoning appeals ex parte communications and proceedings, see Code of Va., § 15.2-2308.1.

<sup>9</sup> As to state law regarding powers of the board of zoning appeals, see Code of Va., § 15.2-2309.

The Board of Zoning Appeals shall have the following powers and duties:

(A) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this ordinance or of any ordinance adopted pursuant thereto.

(1) *The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct.*

(2) *At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden to rebut such presumption of correctness by a preponderance of the evidence.*

(3) *The board shall consider any applicable ordinances, laws, and regulations in making its decision. For the purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer.*

(4) *Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.*

(B) ~~Notwithstanding any other provision of law, general or special, to grant To authorize upon appeal or original application in specific cases such a variance as defined by Virginia Code Section 15.2-2201 from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows: the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in Virginia Code Section 15.2-2201 and the criteria set out in this section, as follows:~~

(1) ~~When a property owner can show that his~~ *Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance and*

*(i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property or where the board is satisfied, upon the*

~~evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.~~

*(ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*

*(iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*

*(iv) the granting of such variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and*

*(v) the relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance at the time of the filing of the variance application.*

~~2. No such variance shall be authorized by the board unless it finds: (a) that the strict application of the ordinance would produce undue hardship; (b) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (c) that the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.~~

~~3. (2) No such variance shall be authorized~~ *considered* except after notice and hearing as required by Section 15.2-2204 of the Code of Virginia, as amended; however, notice of such hearing may be given via first-class mail rather than registered or certified mail pursuant to Section 15.2-2309 of the Code of Virginia.

~~4. No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.~~

~~5. (3) In authorizing~~ *granting* a variance the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

(C) To hear and decide appeals from the decision of the zoning administrator. No such appeal shall be heard except after notice and hearing as provided by Section 15.2-2204 of the Code of Virginia; however, notice of such hearing may be given via first-class mail rather than registered or certified mail pursuant to Section 15.2-2309 of the Code of Virginia.

(D) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by Section 15.2-

2204 of the Code of Virginia, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, notice of such hearing may be given via first-class mail rather than registered or certified mail pursuant to Section 15.2-2309 of the Code of Virginia. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

(E) No provision of this section shall be construed as granting any board the power to rezone property *or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.*

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**Sec. 22-18-4. Applications for variances, appeals to the Board of Zoning Appeals.<sup>10</sup>**

(A) Applications for variances may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the zoning administrator in accordance with rules adopted by the board. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board who shall place the matter on the docket to be acted upon by the board. The zoning administrator shall also transmit a copy of the application to the local commission which may send a recommendation to the board or appear as a party at the hearing. Substantially the same application will not be considered by the board within one year after the decision of the board.

(B) An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the county affected by ~~such~~ *any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration and enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to this chapter.*

*(1) Any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within thirty (30) days in accordance with this section, and that the decision shall be final and unappealable if not appealed within thirty (30) days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given. A written notice of a zoning violation or a written order of the zoning administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this section.*

*(2) Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. Pursuant to ~~Section 15.2-2311 of the Code of Virginia,~~*

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<sup>10</sup> As to state law regarding appeals to the board of zoning appeals, see Code of Va., § 15.2-2311.

~~the zoning administrator shall attach to any written notice of a zoning violation or any written order a statement informing the recipient that he may have a right to an appeal within thirty days, and that the zoning administrator's decision shall become final and unappealable if not filed within thirty days.~~

(3) *Upon the filing of the appeal, the* ~~The~~ zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken.

(4) *A decision by the board on appeal shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided notice of the zoning violation or written order of the zoning administrator. The owner's actual notice of such notice of zoning violation or written order or active participation in the appeal hearing shall waive the owner's right to challenge the validity of the board's decision due to failure of the owner to receive the notice of zoning violation or written order.*

(5) An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

(6) In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after sixty days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The sixty-day limitation period shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical ~~or other nondiscretionary~~ errors.

(C) *In any appeal taken pursuant to this section, if the board's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.*

#### **Sec. 22-18-5. Appeal procedure.**

(A) Applications for variance and appeals shall be filed with the board of zoning appeals in care of the zoning administrator.

- (B) Appeals and applications for variance requiring an advertised public hearing shall be accompanied by a filing fee as determined by a fee schedule adopted by resolution of the governing body. *The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs, as provided in Section 15.2-2311(A0 of the Code of Virginia.* (Ord. 9-21-05)
- (C) All other procedural requirements of Section 15.2-2312 of the Code of Virginia shall be observed by the board of zoning appeals.
- (D) *For the conduct of any hearing, a quorum shall not be less than three members of the board and the board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved, and the staff of the local governing body, pursuant to Section 15.2-2308 of the Code of Virginia.*

**Sec. 22-18-6. Public hearing.<sup>11</sup>**

The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within ninety days. In exercising its powers, the board may reverse or affirm wholly or partly, or may modify, the order, requirement, decision or determination of an administrative officer or decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance.

**Sec. 22-18-7. Certiorari to review decisions of board of zoning appeals.**

- (A) Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any taxpayer or any officer, department, board or bureau of the county, may present to the circuit court of the county a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the board.
- (B) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.
- (C) The board of zoning appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof as may be called for by such writ. The return shall concisely set forth such facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

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<sup>11</sup> *As to state law regarding the timing of public hearing and powers of the board of zoning appeals, see Code of Va., § 15.2-2312.*

(D) ~~If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.~~ The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

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

**Section 22-18-7.1. Presumptions and burdens of proof.**

(A) *In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision, or any modification of zoning requirements, the findings and conclusions of the board of zoning appeals on questions of fact shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision. The court shall hear any arguments on questions of law de novo.*

(B) *In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted an application for a variance, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut the presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision.*

(C) *In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted application for a special exception, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that the board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board (i) was plainly wrong, (ii) was in violation of the purpose and intent of the zoning ordinance, and (iii) is not fairly debatable.*

(D) *In the case of an appeal from the board of zoning appeals to the circuit court of a decision of the board, any party may introduce evidence in the proceedings in the court in accordance with the Rules of Evidence of the Supreme Court of Virginia.*

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**Article 21. Administration and Interpretation.**  
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**Sec. 22-21-3. Interpretation.**

Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

(A) Where district boundaries are indicated as approximately following or being at right angles to the center lines of streets, highways, alleys, or railroad main tracks, such center lines or lines at right angles to such center lines shall be construed to be such boundaries, as the case may be.

(B) Where a district boundary is indicated to follow a river, creek or branch or other body of water, said boundary shall be construed to follow the center line at the low water or at the limit of the jurisdiction and in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline.

(C) If no distance, angle, curvature, description or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the use of the scale shown on said zoning map. In the case of subsequent dispute, the matter shall be referred to the Board of Zoning Appeals which shall determine the boundary.<sup>12</sup>

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**Article 22. Definitions**

**Sec. 22-22-1. Rules of construction; definitions.**

The following terms shall have the meanings assigned to them as hereinafter set forth. Except as expressly otherwise defined herein, all terms used in this chapter shall have their ordinary and established meanings, as the context may require. A word importing the masculine gender only may extend and be applied to females and to corporations as well as males. A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing; and a word importing the plural number only may extend and be applied to one person or thing as well as to several persons or things.

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ASSISTED LIVING FACILITY: A publicly or privately operated long-term care alternative for persons aged 55 and over, or persons with disabilities, as defined by the Federal Americans with Disabilities Act, that provides the availability of professionally managed personal and health care services to occupants on premises. These premises are designed for this population; are residential in character and appearance; may include cooking facilities; and in all respects are intended to enable residents to age in place in a home-like environment. The facility operation shall have the capacity to provide residents with an array of services supporting Activities of Daily Living (ADL's) that may include, but are not necessarily limited to, meals, personal care housekeeping, transportation, and supervision of self-administered medication, while optimizing their physical and psychological independence. Such facility shall be deemed a single unit for purpose of calculating density *when and as required by the Code of Virginia Section 15.2-2291.*

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<sup>12</sup> As to state law provisions regarding district boundary lines, see Code of Va., § 15.2-2309(4).

CENTRAL SEWERAGE SYSTEM: A sewerage system consisting of pipelines or conduits, pumping stations, force mains or sewage treatment plants, including, but not limited to, septic tanks and/or drain fields, or any of them designed to serve three or more connections, used for conducting or treating sewage which is required to be approved by the board of supervisors *in accordance with the Virginia Waste Management Act.* ~~pursuant to Title 15.1, Chapter 9, Article 9 of the Code of Virginia.~~ See *Utilities, major and minor uses.*

CENTRAL WATER SUPPLY: A water supply consisting of a well, springs or other source and the necessary pipes, conduits, mains, pumping stations and other facilities in connection therewith, to serve or to be capable of serving three or more connections, which is required to be approved by the board of supervisors *in accordance with the Virginia State Water Control Board Regulations.* ~~pursuant to Title 15.1, Chapter 9, Article 7 of the Code of Virginia.~~ See *Utilities, major and minor uses.*

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*CHILD DAY CENTER: A child day program offered to (i) two (2) or more children under the age of thirteen in a facility that is not the residence of the provider or of any of the children in care or (ii) thirteen (13) or more children at any location. See also CHILD DAY PROGRAM, FAMILY DAY HOME.*

*CHILD DAY PROGRAM: A regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of thirteen for less than a 24-hour period. See also CHILD DAY CENTER, FAMILY DAY HOME.*

DAYCARE CENTER: *See CHILD DAY CENTER, CHILD DAY PROGRAM, FAMILY DAY HOME.* ~~A facility operated for the purpose of providing care, protection and guidance to ten (10) or more individuals during only part of a 24 hour day. This term includes nursery schools, preschools, daycare centers, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24 hour period.~~

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*FAMILY DAY HOME: A child day program offered in the residence of the provider or the home of any of the children in care for one (1) through twelve (12) children under the age of thirteen, exclusive of the provider's own children and any children who reside in the home, when at least one (1) child receives care for compensation. Family day homes serving six (6) through twelve (12) children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four (4) children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all grandchildren of the provider shall not be required to be licensed. See also CHILD DAY CENTER, CHILD DAY PROGRAM.*

FAMILY DAYCARE HOME: *See CHILD DAY CENTER, CHILD DAY PROGRAM, FAMILY DAY HOME.* ~~A single family dwelling in which more than five (5) but less than thirteen (13) individuals are received for care, protection, and guidance during only part of a twenty four (24) hour day. Individuals related by blood, legal adoption, or marriage to the person who maintains~~

~~the home shall not be counted towards this total. The care of five (5) or fewer individuals for portions of a day shall be considered as a home occupation.~~

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INOPERABLE MOTOR VEHICLE: (i) any motor vehicle which is not in operating condition; (ii) any motor vehicle which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle; or (iii) any motor vehicle on which there are displayed neither valid license plates nor a valid inspection decal, *as provided in Code of Virginia Section 15.2-904.*

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MEDIA, ADULT: Magazines, books, videotapes, movies, slides, CD-ROMs, *DVDs or blu-ray* or other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. See *Retail store, adult use.*

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~~NURSING HOME: Any place or institution, other than a hospital, for the aged, infirm, senile, chronically ill, or convalescent established to render domiciliary care, custodial care, treatment or lodging to three (3) or more nonrelated persons. facility, or any identifiable component of any facility, other than a hospital, licensed pursuant to the Code of Virginia, Section 32.1-123, in which the primary function is the provision, on a continuing basis, of nursing and health-related services for the treatment and inpatient care of two (2) or more nonrelated individuals, including, but not limited to, facilities known as convalescent homes, skilled nursing facilities, skilled care facilities, intermediate care facilities, extended care facilities, and nursing or nursing care facilities.~~

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PARKING BAY: A continuous row of parking, containing twenty (20) parking spaces or less, bounded on both ends by a parking island, as specified in Article 22 26: *Off-Street Parking and Loading Spaces* of this chapter.

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~~SIGN, AUCTION: A temporary sign, not illuminated, advertising an auction to be conducted on the lot or premises upon which it is situated, such signs shall not exceed 20 square feet in area. and may be erected not more than one (1) month before the date of the auction advertised and shall be removed within forty eight (48) hours of its conclusion.~~

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SIGN, BANNER: A temporary sign, not exceeding 32 square feet, made of fabric or other flexible material, suspended from a fixed structure, rope, wire, string, or cable. Banner signs are for the advertising of a special event, product, or group and are not to be displayed for a period of more than thirty (30) consecutive days, and not more than sixty (60) days total in a calendar year.

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SIGN, CONSTRUCTION: A temporary sign that identifies an architect, engineer, contractor, subcontractor, or material supplier who participates in construction on the property on which the sign is located. Such signs shall not exceed 32 square feet in area and eight (8) feet in height, and may be erected once the land disturbance permit has been issued for the property and must be removed upon issuance of a final certificate of occupancy.

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SIGN, POLITICAL: A *temporary* sign expressing or implying the opinion or opinions of an individual or group intended to influence the election or appointment of government officials and/or to influence the actions, policies and /or conduct of government. (Ord. 10-18-00)

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SIGN, TEMPORARY: A sign for the advertising of a special event, product, group, *occurrence, speaker, program* or seasonal activity and not intended or designed for permanent display, *including by way of example and not limitation, signs advertising an event, election, or campaign of an educational, political, religious, civic, philanthropic or historical organization.* *Temporary signs shall be posted a reasonable time before, but in no event greater than thirty (30) days prior to such event, as defined herein, and shall be removed a reasonable time after, but in no event greater than ten (10) days after such event, as defined herein. Temporary signs shall be of reasonable size and no larger than the largest permitted signs in the zoning district, unless otherwise specified in this Code. Such signs shall not exceed 12 square feet and are not to be displayed for a period of more than thirty (30) consecutive days, and not more than sixty (60) days total in a calendar year.*

SIGN, TEMPORARY DIRECTIONAL: A *temporary* sign directing individuals to the location of a special event or gathering. ~~Such signs shall not exceed twelve (12) square feet and shall not be posted more than seven (7) days prior to the event and must be removed within seven (7) days after the event.~~

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SIGN, WARNING: A sign, ~~not exceeding four (4) square feet,~~ located on a property for warning or prohibitions on parking, trespassing, hunting, fishing, swimming, or other activity.

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UTILITY, MAJOR: Facilities for the distribution, collection, treatment, production, transmission and generation of public, private and central utilities including, but not limited to, transmission lines, production plants, electrical substations, pumping stations, treatment facilities, *information* and communication facilities.

UTILITY, MINOR: Facilities for the distribution and collection of public, private and central utilities including poles, lines, transformers, pipes, meters, *information* and communication distribution lines.

VARIANCE: A variance is a *reasonable deviation from the provisions of the zoning ordinance regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done. It shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning.* ~~relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure of size of yards and open spaces; establishment or expansion of a use otherwise~~

~~prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or adjoining zoning districts.~~

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WOODSTORAGE, TEMPORARY: A lot utilized for the temporary (30, 60, or 90 days) storage/loading of forestry products transported from some other location.

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**Article 23. Site Development Plans.**

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**Sec. 22-23-6. Site plan content.**

(1) The site plan, or any portion thereof, involving engineering, urban planning, landscape architecture, architecture, or land surveying, shall be prepared by a qualified person.

(2) Final site plans submitted for approval shall be certified by an architect, landscape architect, engineer, or land surveyor licensed or certified to practice by the Commonwealth of Virginia within the limits of his respective license or certification.

(3) ~~All~~ The minor or major site plans shall include:

(A) The proposed title of the project and the name of the engineer, architect, landscape architect, surveyor, and developer, as applicable.

(B) A signature panel for the Director of Planning to indicate approval.

(C) A ~~north~~ North arrow, scale graphic, and date.

(D) A vicinity map.

(E) ~~The existing~~ Existing zoning and zoning district boundaries on the property in the development and on immediately surrounding properties; ~~all~~ All special zoning requirements attached directly to the site as a result of the issuance of any Special Use Permit, variance, or rezoning; ~~and the proposed~~ Proposed changes in zoning, if any.

(F) The boundaries of the property in the development, including bearings and distances.

(G) All existing property lines, existing streets or rights-of-way opened or unopened; buildings, watercourses, and lakes; and other existing physical features in or adjoining the project. The physical features, such as watercourses, waterways and lakes on the adjoining properties need only be shown in approximate scale and proportion.

(H) ~~The features~~ Features of particular historic, cultural, scientific, or scenic significance as identified in the Comprehensive Plan, by the Director of Planning, or by any County department or state agency having site plan review responsibilities, or by the Virginia Department of Historic Resources the Virginia Department of Conservation and Recreation, or the Virginia Outdoors Foundation including, but not limited to, historic features, archaeological features, and graveyards.

(I) ~~The building Building~~-setback lines; the location of all proposed buildings and structures, accessory and main; number of stories and height; proposed general uses for each building; and the number, size, and type of dwelling units where applicable; ~~and the preliminary Preliminary~~ plans and elevations for main and accessory buildings.

(J) ~~The type Type~~, location, height, and materials of all existing and proposed fences and walls.

(K) ~~The site Site~~-coverage, showing percentage of site in buildings, parking, and open space.

(L) ~~All existing Existing~~ and proposed topography and contour lines of the development site with a contour interval of two (2) feet or less for major site plans, five (5) feet or less for minor site plans, supplemented where necessary by spot elevations.

(M) The location and size of sanitary and storm sewers, gas lines, water mains, culverts, and other underground structures; all overhead utilities and supporting poles in or affecting the development area, including existing and proposed facilities; and easements for these facilities.

(N) The location, dimension, and character of construction of proposed streets, alleys, and driveways; and the location, type and dimensions of means of ingress and egress to the site. When proposed streets intersect with or adjoin existing streets, both edges of existing pavement surface or curb and gutter must be indicated for a minimum of one hundred fifty (150) feet or the length of connection, whichever is the greater distance.

(O) The location of all existing and proposed off-street parking and parking bays, loading spaces, and pedestrian walkways, indicating types of surfacing, dimensions of stalls, width of aisles and a specific schedule showing the number of parking spaces. See Article 22-26 ~~Off-street~~ *Off-street Parking and Loading Spaces Requirements* of this Ordinance. *To the greatest extent possible, parking areas shall not be located between the adjacent public right-of-way and the principal parking structure on the site unless topographic features or vegetation provide effective screening. Cul-de-sacs may not be construed or employed as a parking area.*

(P) The location on the site of all living trees with a diameter of twelve (12) inches or greater at DBH (diameter at breast height) proposed to be removed. The site plan shall show heavily wooded areas to be preserved, trees to be retained, removed, and planted, and designated by symbols coincident with the areas of the trees. See Article 22-24 *Landscaping and Tree Protection* of this Ordinance.

(Q) The location, height, and character of all outdoor lighting systems. See Article 22-25 *Outdoor Light Control* of this Ordinance.

(R) The location, character, height, means of lighting, and orientation of proposed signs. See Article 22-15 *Sign Regulations* ~~Signs~~ of this Ordinance.

(S) All paving, including, without limitation, gravel or other pervious surfaces, *which* shall be of a design and quality to support the traffic which can reasonably be expected to be generated by the proposed use, as required by Article 22-26 Off-Street Parking and Loading Spaces.

(T) ~~The limit of the Limit~~ of one-hundred-year floodplain, as defined in Section 22-23-14(a)(5).

(U) ~~The location Location~~ of any wetlands in compliance with applicable federal, state, and local definition of wetlands.

(V) The location and dimensions of proposed recreation or open space, and required amenities and improvements, including details of disposition, in accordance with any open space or recreation plan adopted by the County.

(W) Any necessary notes required by the Director of Planning to explain the purpose of specific items on the plan.

(X) ~~Cul-de-sacs may not be construed or employed as a parking area. All suitable~~ Suitable easements for future public water and sewer facilities necessary to serve the property. ~~shall be indicated on the plan.~~

(Y) All new electrical, telephone, cable television, fiber optic, and other utility lines on the site *which* shall be installed underground.

(Z) ~~To the greatest extent possible, parking areas shall not be located between the adjacent public right of way and the principal structure on the site unless topographic features or vegetation provide effective screening.~~

(4) In the B-1 and B-C zoning districts, a variation to the setback regulations may be granted by the Planning Commission for projects in a community planning area that meet new urban/neo-traditional planning principles, and further the objectives and goals set forth in the comprehensive plan.

Primary considerations for such requests include:

- location of proposed development;
- size, scale, character, orientation of proposed development;
- adequacy of ROW for future transportation system (evaluate with input from VDOT)
- appropriateness of the proposed setback with surrounding development (proposed and/or existing);
- compatibility with the goals and objectives of the comprehensive plan (applicant should enumerate as many as possible); *and*
- compatibility with new urban/neo-traditional principles (applicant should enumerate as many as possible)

~~(A)~~(5) Site planning shall consider the future development of adjacent parcels as recommended by the Fluvanna County Comprehensive Plan or other approved local plan and as may be indicated by any filed site plan, whether approved or under review. The site plan shall provide for safe and convenient vehicular and pedestrian circulation between sites to be occupied by complementary uses.

~~(B)~~(6) In the B-1, B-C, I-1, and I-2 zoning districts, sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private.

(A) A variation to the sidewalk regulations may be granted by the Planning Commission for projects where:

- a) 1). The Virginia Department of Transportation prohibits the construction of sidewalks;
- b) 2). The physical conditions on the lot or adjoining lots, including but not limited to, existing structure and parking areas, existing utility easements, environmental features, or the size and shape of the lot, make it impossible or unfeasible to provide the required sidewalks;
- c) 3). The application of the ~~before-mentioned~~ *aforementioned* requirements would not further the goals of the Comprehensive Plan or otherwise serve the greater public's health, safety, and welfare.

(B) The applicant *for a variation to the sidewalk regulations* shall file a written request with the Department of Planning and Community Development stating why application of a sidewalk variation is necessary and how the ~~before-mentioned~~ *aforementioned* circumstances may apply to the property.

(C) The Planning Commission shall act on the variation request in conjunction with the county's action on the site plan, subdivision plat or special use permit or, if no such action is required, within sixty (60) days of the date the application was submitted and determined to be complete. The Planning Commission may grant the variation if ~~he~~ *it* determines that one or more applicable circumstances exist. In granting a variation, the Planning Commission may impose conditions deemed necessary to protect the public health, safety, or welfare.

(D) The denial of a variation, or the approval of a variation with conditions objectionable to the applicant, may be appealed to the Board of Supervisors. In considering a variation on appeal, the Board of Supervisors may grant or deny the variation based upon its determination of whether one or more applicable circumstances exist, amend any condition imposed by the Planning Commission, or impose any conditions deemed necessary to protect the public health, safety, or welfare.

(Ord. 5-4-11)

**Sec. 22-23-7. Additional improvements and standards for major site plans.**

The following improvements and minimum standards, as applicable, shall be required and provided for in a major site plan:

- (A) All streets and highway construction standards and geometric design standards shall be in accordance with those specified by Fluvanna County and the Virginia Department of Transportation.
- (B) The pavement of vehicular travel lanes, driveways, or alleys *shall be* designed to permit vehicular travel on the site and to and from adjacent property and parking areas.
- (C) All parking and other vehicular areas shall be so designed as to provide safe and convenient access by all vehicles which can reasonably be anticipated to use the site, including delivery and service vehicles as well as customer and employee vehicles.
- (D) Safe and convenient pedestrian and bicycle access to, from, and within the site shall be provided.
  - (1) In the B-1, B-C, I-1, and I-2 zoning districts, sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private. A variation to the sidewalk regulation may be granted per Section ~~22-23-6(BB)~~ 22-23-6(6).
- (E) Widening or extension of the nearest abutting developed street shall be provided as required by Fluvanna County and the Virginia Department of Transportation. Where the proposed development does not abut a developed public street, a plan of access shall be submitted for approval in conjunction with the site plan.
- (F) Traffic control devices, signs, and pavement markings shall be required. Electric traffic control devices shall be provided by the developer where the anticipated traffic volumes from the proposed development exceeds the thresholds established by the Virginia Department of Transportation.
- (G) All drainage structures and facilities shall be adequate to provide efficient and complete drainage of surface waters from the site into adequate channels. They shall comply with the standards and applicable provisions of the Virginia Erosion and ~~Sediment~~ *Sedimentation Control Handbook of the Virginia Department of Environmental Quality, the Drainage Manual of the Virginia Department of Transportation, and the regulations of the Virginia Department of Environmental Quality.*
- (H) All public water supply and sewerage systems shall comply with the provisions hereof, *and obtain with*—all applicable approvals *and permits from* ~~of~~—Fluvanna County and the relevant Virginia Boards and Departments. ~~Department of Health.~~
- (I) Provisions *shall be made* for the adequate disposition of surface water in accordance with design criteria and construction standards of the Fluvanna County, indicating location, sizes, types and grades of ditches, catch basins, and pipes; and connection to existing drainage systems.

(J) Provisions and schedules shall be made for approval of adequate control of erosion and sedimentation, in accordance with the Fluvanna County Erosion and Sedimentation Control program, found in Chapter 6: Erosion and Sedimentation Control of this Code.  
(Ord. 5-4-11)

.....  
**Article 24. Landscaping and Tree Protection.**  
.....

**Sec. 22-24-3. Landscape Plan Contents.**

~~A.~~ The Landscape plan ~~Plan~~ shall include the following elements:

- ~~1.~~ (A) ~~The existing Existing~~ and proposed contours at intervals of five (5) feet or less;—
- ~~2.~~ (B) ~~All property Property~~ boundary lines;—
- ~~3.~~ (C) ~~The limits Limits~~ of grading and clearing;—
- ~~4.~~ (D) ~~The tree Tree~~ protection zone(s) as applicable *and any and all information required for tree protection as indicated in Sections 22-24-8.1-3 of this Article*;—
- ~~5.~~ (E) All proposed improvements;—
- ~~6.~~ (F) ~~The existing Existing~~ and proposed underground and overhead utilities, including heights and/or depths;—
- ~~7.~~ (G) ~~All rights of way Rights-of-way~~ and easements;—
- ~~8.~~ (H) *An adequate, clearly identified, exterior water source; and*
  - (I) *All planting details including:*
    - ~~9.~~ (1) ~~The botanical Botanical~~ and common name, size, spacing, and location of all trees, shrubs, and ground cover, and the location and extent of planting beds in which they are to be planted, if any;—
    - ~~10.~~ (2) ~~All plants Plants~~ shall be labeled on the plan by direct call-out method or by symbols keyed to a plant list;—
    - ~~11.~~ (3) A planting symbol shall be provided to illustrate the natural canopy/cover of trees and the extent of growth of shrubs at maturity;—
    - ~~12.~~ (4) A plant list or matrix shall be provided showing the botanical name, common name, quantity, size, spacing, handling method, and general instruction, if any, specific to each plant;—

~~13.~~ (5) General details *shall be provided* illustrating the method of installation of plants, seeding, and sodding, including but not necessarily limited to size of plant pit, method of placement, backfill material, method of support, preparation of beds, mulch, etc. ;-

~~14.~~ (6) Special details *shall be provided* illustrating special conditions such as supplemental plant pit drainage, pruning for special effects, or other conditions requiring illustrated instructions;-

~~15.~~ (7) General notes *shall be provided* specifying the care and maintenance of plants for a period of three years following planting and the replacement of any dead, dying, or diseased vegetation required to be installed by this chapter for the life of the project.

~~16. Any and all information required for tree protection as indicated in Section B of this article.~~

~~17. Provide and identify adequate exterior water source. (Ord. 8-1-12)~~

**Sec. 22-24-4. Minimum Standards.**

(A) The following shall be the minimum size of plant materials at installation:

- (1) Large shade trees                      1.5” caliper
- (2) Medium shade trees                    1.25” caliper
- (3) Ornamental trees                        1.25” caliper
- (4) Evergreen trees                         5’ in height
- (5) Shrubs                                     18” in height
- (6) Ground cover                            1 year plants

(B) All required landscaping shall be planted according to the following standards:

- (1) All trees to be planted shall meet the *American Standard for nursery stock published by the American Nursery and Landscape Association.* ~~specifications of the American Landscape Association.~~
- (2) The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the *Virginia Nursery and Landscape Association and the Virginia Society of Landscape Designers, or Nurserymen’s Association, the Virginia Chapter of Landscape Designers, and the Virginia Chapter of the American Society of Landscape Architects,* or the Road and Bridge Specifications of the Virginia Department of Transportation.

(3) All required landscaping shall be planted between September 15 and June 30, provided that the ground is not frozen.

(C) Wheel stops, curbing, or other barriers shall be provided to prevent damage to landscaping by vehicles.

(D) Where necessary, trees shall be welled or otherwise protected against change in grade. Such protection measures shall be sited to minimize disturbance within the drip line of trees designated for protection on the landscape plan.

(E) All pervious areas of the site shall be permanently protected from soil erosion with grass, ground cover, or mulch material.  
(Ord. 8-1-12)

.....  
*Article 25. Outdoor Light Control*<sup>13</sup>  
.....

**Sec. 22-25-4. General Terms.**

(A) Outdoor Light Fixtures shall mean outdoor artificial illuminating devices, outdoor fixtures, lamps or other devices, permanent or portable, used for illumination, direction or advertisement. Such devices shall include, but are not limited to search, spot, or flood lights for:

- (1) Buildings and structures, including canopies and overhangs
- (2) Parking lot lighting
- (3) Landscape lighting
- (4) Signs
- (5) Display and service areas

(B) Installed shall mean the initial installation of outdoor light fixtures defined herein, following the effective date of this article, but shall not apply to those outdoor light fixtures installed prior to such date.

(C) Shielded, Fully shall mean fixtures that are shielded in such a manner that light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below a horizontal plane running through the lowest point on the fixture where light is emitted. This means that a fully shielded fixture is one used in such a way that it allows no direct or internally reflected light to shine above the light fixture or beyond the property line. The terms ‘source shield’ and ‘full cutoffs’ shall mean fully shielded.

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<sup>13</sup> Renamed by Editor from “Sec. 22-25. Outdoor Light Control Article”.

- (D) Footcandle *shall mean a* ~~A~~ quantitative unit of measure referring to the measurement of illumination incident at a single point. One footcandle is equal to one lumen uniformly distributed over an area of one square foot.
- (E) Full Cutoff Angle *shall mean the* ~~—The~~ angle formed by a line drawn from the light source and a line perpendicular to the ground from the light source, beyond which no light is emitted. ~~Refer to example graphics. (Refer to Figure 2)~~
- (F) Initial Lumens *shall mean the* ~~—The~~ lumens emitted from a lamp, as specified by the manufacturer of the lamp.
- (G) Lamp *shall mean the* ~~—The~~ component of a luminaire that produces and directs light. A lamp is also commonly referred to as a bulb.
- (H) Lumen *shall mean a* ~~—A~~ standard unit of measurement referring to the amount of light energy emitted by a light source, without regard to the effectiveness of its distribution.
- (I) Luminaire *shall mean* ~~—A~~ complete lighting unit consisting of a lamp or lamps together with the components designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply. A luminaire is also commonly referred to as a fixture.
- (J) Outdoor Luminaire *shall mean a* ~~—A~~ luminaire that is permanently installed outdoors including, but not limited to, devices used to illuminate any site, structure, or sign.
- (K) Photometric Plan *shall mean a* ~~—A~~ point-by-point plan depicting the intensity and location of lighting on the property and spillover on to adjacent properties or rights of way.

.....

**Sec. 22-25-6. General Requirements for All Zoning Districts.**

- ~~A.~~ (A) Public or Private Recreational Facilities: Lighting for the parking areas for these facilities shall meet the requirements identified in the following Applications section.
- ~~B.~~ (B) Outdoor Illumination of Building, Landscaping and Signs. The unshielded outdoor illumination of any building or landscaping is prohibited. Lighting fixtures used to illuminate an outdoor sign shall either be mounted on the ground sign or mounted on the top of the sign, and shall comply with shielding requirements.
- ~~C.~~ (C) All outdoor lighting fixtures shall be turned off after the close of business, unless needed for safety or security, in which case the lighting shall be reduced to the minimum level necessary.
- ~~D.~~ (D) Gasoline Station/Convenience Store Aprons and Canopies.

- (1) The ~~Lighting~~ lighting fixture bulbs shall be recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling and light is restrained to no more than 85 degrees from vertical. ~~as shown in Figure 1.~~
- (2) As an alternative to recessed ceiling lights, indirect lighting may be used where the light is directed upward and then reflected down from the underside of the canopy. In this case, light fixtures shall be shielded so that direct illumination is focused exclusively on the underside of the canopy and the canopy designed is such a way as to prevent light from being directly reflected beyond the property line.
- (3) Lights shall not be mounted on the top or sides (fascia) of the canopy, and the sides of the canopy shall not be illuminated.
- (4) The lighting for new facilities (pump islands and under canopies) shall have a minimum of 1.0 footcandle at grade, and the average horizontal illumination cannot exceed 10 footcandles at grade level, subject to a uniformity ratio (ratio of average to minimum illuminance) no greater than 4:1. The standards herein are based on the Illuminating Engineering Society of North America (IESNA) RP-33, Lighting for Exterior Environments.
- (5) *Spillover light, vertical or horizontal, from parking area luminaires onto public roads and property in residential or agricultural zoning districts shall not exceed one-half (1/2) footcandle at the property line.*
- (6) *The lighting of roofs or portions thereof is prohibited.*
  - ~~5.~~ (E) All Parking Lots, Loading and Display Areas. This lighting requirement applies to multi-family, educational, institutional, public, commercial business and retail, ~~wholesale wholesaling~~, and limited and general industrial use categories identified within the Zoning Ordinance.
    - ~~a.~~ 1) Lighting for all parking, display and loading areas shall not exceed an average horizontal illumination level of 2.5 footcandles. All lighting fixtures serving these areas shall be cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA);
    - ~~b.~~ 2) Maximum Mounting Height\*
      - Residential: 15 feet
      - Non-Residential: 20 feet
      - \* Height is measured from the ground surface to the bottom of the lighting fixture.
- ~~6.~~ (F) Spillover light, vertical or horizontal, from parking area luminaires onto public roads and property in residential or agricultural zoning districts shall not exceed one-half (1/2) footcandle at the property line.

7. (G) The lighting of roofs or portions thereof is prohibited.

.....  
**Article 26. Off-Street Parking and Loading Spaces.**  
.....

**Sec. 22-26-4. Parking space standards.**

(A) Parking Dimensional Standards

(1) Parking spaces and adjacent aisles shall conform to the dimensions listed in Table 1:

---table omitted---

(2) The minimum stall depth requirements for perpendicular parking spaces may be reduced by up to two feet (2'), if the parking spaces are adjacent to planting strips or other landscaping features that allow for an unobstructed overhang equivalent to the reduction.

(3) Parking areas containing thirty (30) or more spaces may designate up to twenty percent (20%) of the minimum required parking spaces as compact car spaces. Such spaces shall meet the following requirements:

- (a) All compact parking spaces shall conform to the dimensions listed in Table 1.
- (b) Compact car parking spaces shall be located in one (1) or more continuous areas and shall not be intermixed with spaces designed for full-size vehicles.
- (c) Compact car parking spaces shall be clearly designated by pavement markings and/or appropriate signage.

(4) Vehicular access roads, when not adjacent to parking spaces, shall meet the following requirements:

- (a) The minimum travelway width for two-way access roads shall be twenty-four feet (24').
- (b) One-way access roads are permitted, provided that the circulation pattern is contained within the site or sites shown on the site plan and public roadways are not incorporated as part of the circulation pattern. The minimum travelway for one-way access roads shall be twelve feet (12').

(B) Handicapped Parking

(1) Handicapped parking spaces shall have a minimum width of eight (8) feet, with an adjacent five- (5) foot access aisle to be provided on one side of the handicapped space.

(2) Handicapped parking spaces shall have a minimum length of 18'.

- (3) In any parking lot of more than five (5) spaces, there shall be at least two (2) designated and properly signed as a handicapped space.
- (4) In parking lots having more than five (5) spaces, at least one (1) per *twenty-five* (25) spaces *shall be handicapped spaces* in addition to the two handicapped spaces already provided in 22-26-4(B)3. ~~22-26-4(b)3.~~
- (5) Handicapped parking spaces shall be situated so as to provide direct, unobstructed access to buildings by the shortest practical routing.

.....  
**Article 27. Regulation of Telecommunications Facilities.**  
 .....

**Sec. 22-27-2. Existing telecommunications antenna support facilities.**

Telecommunications antenna support facilities (TASFs) existing or permitted prior to the adoption of this Article shall be subject to the provisions of Article 16: *Nonconforming Uses* of this ordinance. (Ord. 9-21-11)

.....  
**Sec. 22-27-6. Definitions.**

For purposes of this Article 27, the following terms shall be defined as follows:

**ABANDONED:** Any antenna support facility without any mounted transmitting and/or receiving antennas in continued use.

.....  
**ASR:** The Antenna *Structure Registration Number* ~~Facility Registration Number~~ as required by the FAA and FCC.

.....  
~~LEASE~~ **LEAST VISUALLY OBTRUSIVE PROFILE:** The design of a telecommunication antenna support facility intended to present a visual profile that is the minimum profile necessary for the facility to properly function.

.....  
**TELECOMMUNICATION ANTENNA SUPPORT FACILITY** (hereinafter “TASF”): Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other telecommunications, and usually *consisting* ~~consist~~ of an antenna support facility (see definition), feed lines, base station(s), and antenna(s) and antenna array(s). The following are included in the telecommunication antenna support facility: new, mitigated, replacement, and/or existing concealed and non-concealed antenna support facilities, public antenna support facilities, colocations, antenna attachments, broadcast, and wireless broadband facilities.

.....  
**Sec. 22-27-9.9. Wireless broadband facility.**

- (1) A *wireless broadband facility* ~~Wireless Broadband Facility~~ may be colocated in accordance with the provisions of *Secs. 22-27-9.5 and 22-27-10.2, as applicable; Sec. 22-37-13.8;* and

(2) A *wireless broadband facility* ~~Wireless Broadband Facility~~ proposed for a new physical site shall comply with the provisions of Sec. 22-27-8. herein above.

(Ord. 9-21-11)

.....

**Sec. 22-27-10.2. Additional submittal requirements for attached antenna (concealed and non-concealed); colocations; colocation modifications; antenna replacements of different size, weight or frequency, and antenna combining.**

*Additional requirements for applications for attached antenna, both concealed and non-concealed; colocations; colocation modifications; antenna replacements of a different size, weight or frequency, and antenna combining shall include all of the following:*

- (1) A written statement setting forth the reasons for the request.
- (2) A description of the proposed request, including any proposed modifications to antenna element design, type and number including manufacturer's model number of the existing and proposed antenna elements; as well as changes in the number and/or size of any feed lines, from the base of the equipment cabinet to such antenna elements.
- (3) A stamped or sealed structural analysis of the proposed antenna support facility prepared by a registered professional engineer licensed by the State of Virginia indicating the proposed and future loading capacity of the antenna support facility is compliant with EIA/TIA-222-G (as amended).
- (4) A signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards relating to interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards relating to human exposure to RF energy.
- (5) A stamped or sealed structural analysis of the existing facility prepared by a registered professional engineer licensed by the State of Virginia indicating that the existing TASF as well as all existing and proposed appurtenances meets Virginia Building Code requirements (including wind and ice loading) for the antenna support facility.

(Ord. 9-21-11)

**Sec. 22-27-10.3. Additional submittal requirements for all freestanding telecommunication and broadcast antenna support facilities.**

*Additional requirements for applications for freestanding telecommunications and broadcast antenna support facilities shall include all of the following:*

- (1) One (1) original and two (2) copies of a survey of the property completed by a registered professional engineer, licensed in the State of Virginia showing all existing uses, facilities, and improvements.

- (2) Site development plan regulations as set forth in Article 23 of this ordinance.
- (3) Proof that a property and/or antenna support facility owner's agent has appropriate authorization to act upon the owner's behalf (if applicable). A signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards regarding interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards regarding human exposure to RF energy.
- (4) A stamped or sealed structural analysis of the proposed antenna support facility prepared by a registered professional engineer licensed by the State of Virginia indicating the proposed and future loading capacity of the antenna support facility is compliant with EIA/TIA-222-G (as amended).
- (5) A written statement by a registered professional engineer licensed by the State of Virginia specifying the design structural failure modes of the proposed facility, if applicable.
- (6) A pre-application conference will be required for any new broadcast facility.
- (7) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.
- (8) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.  
(Ord. 9-21-11)

**Sec. 22-27-10.3.A. Additional submittal requirements for non-broadcast TASFs.**

*Additional requirements for applications for non-broadcast TASFs shall include all of the following:*

- (1) Technical data included in the report shall include certification by a registered professional engineer licensed in the State of Virginia or other qualified professional, which qualifications shall be included, regarding service gaps or service expansions that are addressed by the proposed TASF, and accompanying maps and calculations demonstrating the need for the proposed TASF.
- (2) A map showing the geographic search ring.
- (3) The applicant shall provide a statement as to the potential visual and aesthetic impacts of the proposed TASF and equipment on all adjacent residential zoning districts.

- (4) Materials detailing the locations of existing TASFs to which the proposed TASF will be a handoff candidate; including latitude, longitude, and power levels of the proposed and existing antenna is required.
- (5) A radio frequency propagation plot indicating the coverage of existing TASFs, coverage prediction, and design radius, together with a certification from the applicant's radio frequency (RF) engineer that the proposed facility's coverage or capacity potential cannot be achieved by any higher ranked alternative such as a concealed facility, attached facility, replacement facility, colocation, or new TASF. NOTE: These documents are required to justify a facility and to determine if the proposed location is the only or best one in the designated geographic area of the proposed facility.
- (6) A stamped or sealed certification from a registered radio frequency engineer demonstrating compliance with **Section 22-27-7** (Siting alternatives—hierarchy). If a lower ranking alternative is proposed the certification must address why higher ranked options are not technically feasible, practical or justified given the location of the proposed telecommunications facility.

(Ord. 9-21-11)

**Sec. 22-27-10.3.B. Additional submittal requirement for broadcast antenna support facilities.**

*For applications for broadcast antenna support facilities, the technical ~~Technical~~-data included in the report shall include the purpose of the proposed facility as described in the FCC Construction Permit Application. (Ord. 9-21-11)*

.....

**Sec. 22-27-11.1. "By right" application.**

*The review of any and all "by right" applications shall be as follows:*

- (1) The zoning administrator or designee shall review the request, application, and submitted documents for compliance with all requirements of this Article. The County may, at its discretion, obtain additional technical assistance to review and assess the technical merits of the documents.
- (2) If the zoning administrator or designee determines the application and documentation meets all of the requirements of this Article, the County shall approve the application package and the applicant may proceed to request a building permit.
- (3) If the zoning administrator or designee determines the application and/or documentation fails to meet all the requirements of the Article, then the County shall provide written notification to the applicant as to the materials which need to be amended or supplied for review. The applicant shall provide to the County any requested materials for review. This process shall continue until the County has approved the application package, at which time the applicant may proceed to request a building permit.

- (4) If the zoning administrator or designee determines the application and documentation fails to meet the intent of this Article, the County may deny the request in writing.
- (5) Appeals from a decision made by the zoning administrator shall be to the Board of Zoning Appeals.  
(Ord. 9-21-11)

*The Fluvanna County Planning Commission resolves to propose an amendment and reenactment of the Fluvanna County zoning ordinance entitled “AN ORDINANCE TO AMEND AND REENACT CHAPTER 22, ARTICLES 1, 2, 4, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, AND 27 OF THE FLUVANNA COUNTY CODE BY CERTAIN AMENDMENTS TO SECTIONS AND SUBSECTIONS 22-1-2, 22-2.1, 22-4-6, 22-4-9.1, 22-4-9.2, 22-4-9.4, 22-7-4, 22-7-5, 22-7-12, 22-9-2, 22-9-3, 22-10-5, 22-11-2, 22-12-9, 22-13-1, 22-13-2, 22-13-3, 22-13-4, 22-13-5, 22-13-6, 22-13-7, 22-14-8, 22-14-8.3, 22-15-4.1, 22-16-8, 22-17-1, 22-17-6, 22-17-9, 22-17-15, 22-17-16, 22-17-18, 22-18-1, 22-18-1.1, 22-18-2, 22-18-4, 22-18-5, 22-18-6, 22-18-7, 22-18-7.1, 22-21-3, 22-22, 22-23-6, 22-23-7, 22-24-3, 22-24-4, 22-25-4, 22-25-6, 22-26-4, 22-27-2, 22-27-6, 22-27-9.9, 22-27-10.2, 22-27-10.3, 22-27-10.3.A, 22-27-10.3B, AND 22-27-11.1. THEREOF, AMENDING AND REENACTING THE FLUVANNA COUNTY ZONING ORDINANCE TO CONFORM TO THE CURRENT ENABLING LEGISLATION, AS AMENDED.”*

*The public purpose for such amendment is to conform the zoning ordinance to the current enabling legislation, as amended.*

BE IT ORDAINED BY THE PLANNING COMMISSION OF FLUVANNA COUNTY, VIRGINIA, that the Fluvanna County Code be, and it is hereby, amended and reenacted as follows:

**Chapter 22  
ZONING**

.....

***Article 9. Business, General, District B-1***

- Sec. 22-9-1. Statement of intent.
- Sec. 22-9-2. *Use regulations.*
- Sec. 22-9-2.1. Uses permitted by right.
- Sec. 22-9-2.2. Uses permitted by special use permit only.
- Sec. 22-9-3. Requirements for permitted uses.
- Sec. 22-9-4. Area regulations.
- Sec. 22-9-5. Setback regulations.
- Sec. 22-9-6. Yard regulations.
- Sec. 22-9-7. Height regulations.
- Sec. 22-9-8. Off street parking.
- Sec. 22-9-9. Sign regulations.
- Sec. 22-9-10. Sidewalks.

.....

***Article 11. Industrial, Limited, District I-1***

- Sec. 22-11-1. Statement of intent.
- Sec. 22-11-2. *Use regulations.*
- Sec. 22-11-2.1. Uses permitted by right.

- Sec. 22-11-2.2. Uses permitted by special use permit only.
- Sec. 22-11-3. Requirements for permitted uses.
- Sec. 22-11-4. Area regulations.
- Sec. 22-11-5. Setback regulations.
- Sec. 22-11-6. Yard regulations.
- Sec. 22-11-7. Height regulations.
- Sec. 22-11-8. Coverage regulations.
- Sec. 22-11-9. Off-street parking.
- Sec. 22-11-10. Sign regulations.
- Sec. 22-11-11. Sidewalks.

.....  
**Article 13. ~~Mobile~~ Manufactured Home Park, District MHP**

- Sec. 22-13-1. Statement of intent.
- Sec. 22-13-2. Use regulations.
  - Sec. 22-13-2.1. Uses permitted by right.
  - Sec. 22-13-2.2. Uses permitted by special use permit only.
- Sec. 22-13-3. Area regulations.
- Sec. 22-13-4. Setback regulations.
- Sec. 22-13-5. Frontage regulations.
- Sec. 22-13-6. Required improvements within lots.
- Sec. 22-13-7. Site plan required.

.....  
**Article 15. Sign Regulations**

- Sec. 22-15-1. Statement of intent.
- Sec. 22-15-2. General provisions.
  - Sec. 22-15-2.1. Political signs on privately owned property.
- Sec. 22-15-3. Signs permitted.
- Sec. 22-15-4. Administration.
  - Sec. 22-15-4.1 *“Going out of business” and “Special” sales.*
- Sec. 22-15-5. Non-conforming signs.

..... **Article**  
**17. General Provisions**

- Sec. 22-17-1. Zoning permits.
- Sec. 22-17-2. Reserved.
- .....
- Sec. 22-17-15. Special exception for placement of *a manufactured mobile* home.
- Sec. 22-17-16. Special use permit for power production plants.
- Sec. 22-17-17. Public safety buildings exempt from certain requirements.
- Sec. 22-17-18. *Necessary subordinate uses.*

**Article 18. Provisions for Appeal and Variance**

- Sec. 22-18-1. Board of zoning appeals.

- Sec. 22-18-1.1. Ex parte communications and proceedings.*
- Sec. 22-18-2. Powers of the Board of Zoning Appeals.*
- Sec. 22-18-3. Rules and regulations.*
- Sec. 22-18-4. Applications for variances, appeals to the Board of Zoning Appeals.*
- Sec. 22-18-5. Appeal procedure.*
- Sec. 22-18-6. Public hearing.*
- Sec. 22-18-7. Certiorari to review decisions of board of zoning appeals.*
- Sec. 22-18-7.1. Presumptions and burdens of proof.*

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**Article 1. In General**

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**Sec. 22-1-2. Purpose.**

This chapter, together with the accompanying map, is adopted for the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of Virginia Code Section 15.2-2283. This chapter has been designed (1) to provide for adequate light, air, convenience of access, and safety from fire, flood, *impounding structure failure*, crime and other dangers; (2) ~~to accommodate traffic~~ *to reduce or prevent congestion in the public streets*; (3) to facilitate the creation of a convenient, attractive and harmonious community; (4) to expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, and other public requirements; (5) to protect against destruction of or encroachment upon historic areas; (6) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, *impounding structure failure*, panic or other dangers; (7) to encourage economic development activities that provide desirable employment and enlarge the tax base; (8) to provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment; and (9) to promote *the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the county is situated.*

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**Article 2. Districts**

**Sec. 22-2-1. Districts.**

For the purpose of this chapter, the unincorporated area of the county is hereby divided into the following districts:<sup>1</sup>

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<sup>1</sup> Editor's note. -- Prior to August 19, 1992, the Zoning Ordinance of Fluvanna County, Virginia, contained a district identified as "Conservation, C-1." The Conservation, C-1 district was repealed by ordinance adopted on that date.

Agricultural, General, A-1  
 Residential, Limited, R-1  
 Residential, General, R-2  
 Residential, Planned Community, R-3  
 Residential, Limited, R-4  
 Business, General, B-1  
 Business, Convenience, B-C  
 Industrial, Limited, I-1  
 Industrial, General, I-2  
~~Mobile~~ *Manufactured Home Park, MHP.*  
*Planned United Development, PUD.*

.....

**Article 4. Agricultural, General, District A-1**

.....

**Sec. 22-4-6. Off-street parking.<sup>2</sup>**

Off-street parking shall conform to Article 26: *Off-Street Parking and Loading Spaces* of this chapter.

**Sec. 22-4-9.1 Definitions.**

For the purpose of sections 22-4-9 through 22-4-9.4, the following terms shall have the meaning indicated:

- (1) Livestock includes all domestic or domesticated *animals, including but not limited to: cattle, sheep, lambs, hogs, goats, horses, poultry, and furbearing animals.* ~~;~~ ~~bovine animals, such as cattle; equine animals, such as horses; ovine animals, such as sheep; and porcine animals, such as hogs.~~
- (2) Intensive livestock, dairy or poultry facility means a livestock, dairy or poultry operation where, for a period of 45 consecutive days or more, 300 animal units are closely confined and not free-ranging, and are fed in the area of confinement. For the purpose of this article, 300 animals units shall be equivalent to any of the following, or any combination thereof where the animals are confined in one location:
  - Livestock: 300 slaughter or feeder cattle
  - ~~livestock~~ *Livestock:* 750 swine each weighing over 55 pounds
  - ~~livestock~~ *Livestock:* 150 horses
  - ~~livestock~~ *Livestock:* 3,000 sheep, lambs, or goats ~~or lambs~~
  - Livestock:* 16,500 furbearing animals such as rabbits or chinchilla
  - ~~dairy~~ *Dairy:* 200 mature dairy cows (whether milked or dry cows)
  - ~~poultry~~ *Poultry:* 16,500 turkeys

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<sup>2</sup> For state law granting localities the authority to regulate off-street parking, see Code of Va., § 15.2-2279.

~~poultry~~ Poultry: 30,000 laying hens or broilers

- (3) Intensive livestock, dairy or poultry structure means a building, structure or other improved area used in the operation of an intensive livestock, dairy or poultry facility; including, but not limited to, litter storage sites, incinerators, manure storage sites, poultry houses, poultry disposal pits, or dead poultry cold storage chests. The term shall not include structures that are used only indirectly in the operation of the facility.
- (4) Operator means any person who operates an intensive livestock, dairy or poultry facility, or the land on which it is located.
- (5) Poultry means any domestic or domesticated fowl raised for meat or eggs; including, but not limited to, chickens and turkeys.
- (6) Existing intensive livestock, dairy or poultry structure means an intensive livestock, dairy or poultry structure that has been in operation for one year within the five years immediately preceding the date on which a building or zoning permit is sought for a dwelling.

**Sec. 22-4-9.2 Setbacks.**

- (1) Except as otherwise expressly provided in this section, each intensive livestock, dairy or poultry structure shall be set back 300 feet from *any* property line.
- (2) Any dwelling not owned by the operator shall be set back from any existing intensive livestock, dairy or poultry structure as follows:
  - (a) If the dwelling is an Agricultural (A-1) district, 300 feet;
  - (b) If the dwelling is in a residential district, 600 feet.
- (3) Each intensive livestock , dairy or poultry structure shall be setback at least 300 feet from any property line, at least 200 feet from the right-of-way of any secondary road, and at least 300 feet from the right-of-way of any primary highway.
- (4) Each intensive livestock, dairy or poultry structure shall be setback at least 1,000 feet from any incorporated town, public school, place of worship, public water intake from a stream or river and from the boundary of any adjacent residential district.

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**Sec. 22-4-9.4 Nutrient management plan.**

After the effective date of this section, no intensive livestock, dairy or poultry facility for which the Commonwealth of Virginia requires a nutrient management plan shall commence operation until such plan has been approved by the Virginia Department of Conservation and Recreation, ~~or by the Virginia Cooperative Extension Service~~, or by a person certified or

employed by the *Virginia Soil and Water Conservation Board or the Commonwealth* as a nutrient management planner, *in accordance with 4VAC50-85-10 et seq, "Nutrient Management Training and Certification Regulations."*

If the nutrient management plan provides for off-site disposal of waste, the operator shall provide, as a part of the plan, written documentation of an agreement with the receiver of the waste produced at his facility, or affidavit, sworn and subscribed before a notary public, that states his intention to dispose of waste through sale in a retail establishment or otherwise marketing to consumers. Documentation shall specify the duration of the agreement and the nature of the application or use of the waste. A nutrient management plan containing such an agreement shall be valid only as long as the agreement remains in force and shall be reviewed whenever such agreement expires or is terminated. If such an agreement is terminated before its expiration date, the operator shall notify the zoning administrator within fifteen days of termination.

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**Article 7. Residential, Planned Community, District R-3**

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**Sec. 22-7-4. Required information on Preliminary Master Plan.**

(a) The location of the open areas which shall comprise not less than twenty-five (25) percent of the whole. The open areas shall include parks, recreation facilities, residential clubhouse grounds, lakes, trails, and land or water left in undisturbed natural condition and unoccupied by building lots, structures, streets and roads and parking lots. This area may be used for active recreation facilities identified in Section 22-7-12. The open areas of the tract shall be delineated due to their noteworthy features and value to the continued rural character of the county, including, but not limited to, lands with high scenic, open space and water quality protection values including riparian corridors and wildlife habitat; high environmental sensitivity such as steep slopes, wetlands, floodplains; high recreational value and/or having noteworthy historical, archaeological or cultural features.

(b) *The Preliminary Master Plan shall contain the following information:*

(c) (A) ~~The plan shall also indicate the~~ *The* general location of the various types of land uses, including the general location of any village centers, and the residential density classifications of each residential area;

(d) (B) ~~The areas Areas~~ *Areas* designated for residential development, with maximum proposed number of units, density calculations, and plot plans of typical units provided;;

(e) (C) ~~The areas Areas~~ *Areas* designated for commercial and/or institutional development, with maximum proposed square footages and floor area ratios indicated. The location of all buildings and improvements, and their proposed use, other than single-family dwellings, and the location of any public buildings shall be shown;-

- (f) ~~(D) The street~~ **Street**-layout, with indication of which *streets* are to be dedicated to public use and which are to be held in private ownership, and a brief description of maintenance arrangements; street functional classification; and proposed street cross-sections,;
- (g) ~~(E) The pedestrian~~ **Pedestrian** and bicycle facilities, including sidewalks and trails, with proposed cross-sections,;
- (h) ~~(F) The orientation~~ **Orientation** of the Preliminary Master Plan to the surrounding community by extending the overall development and preservation pattern, tree protection and buffers, general building design, covenants and restrictions,-
- (i) ~~(G) The general location of all public and private roads shall be indicated on the plan,;~~
- (j) ~~(H) The adequate~~ **Adequate** provisions for general sewer, storm drainage, and water supply ~~shall be shown on the plan,; and~~
- (k) ~~(I) The Preliminary Master Plan shall also demonstrate~~ **Demonstrate** its compliance with the county's Comprehensive Plan.

**Sec. 22-7-5. Development -- Final Master Plan plan.**

(a) ~~Submitting the Final Master Plan: Requirements for Submittal~~

- (1) ~~A~~ **The applicant shall submit five** ~~Five~~ (5) copies of the final Master Plan to the Planning Director. The final plan shall ~~have been~~ **be** prepared by a licensed surveyor, engineer, landscape architect, or architect.
- (2) ~~B~~ **The Final final** Plans shall be consistent with the Preliminary Master Plan as approved. The applicant may vary from the *approved Preliminary Master Plan* to any degree if it does not vary the basic concept or character of the development.
- (3) ~~C~~ **Any departure from the approved Preliminary Master Plan must** ~~shall~~ be approved by the Planning Commission.

(b) ~~The Final Master Plan must contain: Requirements:~~

- (1) All the Preliminary Master Plan Information,;
- (2) ~~The location of the existing~~ **Existing** and proposed property lines,;
- (3) ~~The plans and specifications~~ **Plans and Specifications** for roads, pedestrian facilities, parking areas, Stormwater Management facilities, water and sewer system, active recreational facilities, and any other infrastructure elements proposed and shall be in compliance with Virginia Stormwater Management Regulations,;



	Minimum of three acres of recreation area
61- 100 residential units	Group A – Choice of three Group B – Choice of three Minimum of six acres of active recreation
101 + residential units	Group A- Choice of three Group B – Choice of three Group C – Choice of one Minimum of eight acres of active recreation

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**Article 9. Business, General, District B-1**  
 .....

**Sec. 22-9-2. Use Regulations.**

*In Business, General, District B-1, structures to be erected or land to be used shall be for one or more of the following uses, together with ordinary and necessary accessory uses, and no others.*

**Sec. 22-9-3. Requirements for permitted uses.**

All buildings, structures and uses in the B-1 District shall be subject to the provisions of Article 23: *Site Development Plans of this code.*

.....  
**Article 10. Business, Convenience, District B-C**  
 .....

**Sec. 22-10-5. Requirements for permitted uses.**

All buildings, structures and uses in the ~~BC~~ B-C District shall be subject to the provisions of Article 23: *Site Development Plans of this code.*

.....  
**Article 11. Industrial, Limited, District I-1**  
 .....

**Sec. 22-11-2. Use Regulations.**

*In Industrial, Limited, District I-1, structures to be erected or land to be used shall be for one or more of the following uses, together with ordinary and necessary accessory uses, and no others.*

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**Article 12. Industrial, General, District I-2**  
 .....

**Sec. 22-12-9. ~~Off-street~~ Off-Street parking.**

Off-street parking shall conform with Article 26: *Off-Street Parking and Loading Spaces* 47 of this chapter.

.....  
**Article 13. ~~Mobile~~ Manufactured Home Park, District MHP**

**Sec. 22-13-1. Statement of intent.**

This district is intended to accommodate ~~mobile-~~ *manufactured* home parks with lots for rent exclusively. This district is based on the premise that the demand for ~~mobile-~~ *manufactured* homes can best be supplied by ~~mobile-~~ *manufactured* home parks. The following regulations are designed to provide an attractive and harmonious environment for ~~mobile-~~ *manufactured* home dwellings, with all amenities normally found in a substantial residential neighborhood.

**Sec. 22-13-2<sup>3</sup>. Use regulations.**

In ~~Mobile~~ *Manufactured* Home Park, District MHP, only one *mobile or manufactured* home and its accessory uses and structures shall be permitted on each minimum lot area. Structures to be erected or land to be used shall be for some combination of the following uses. *Manufactured homes used pursuant to this section shall comply with the Flood Protection subsection of this Chapter found in Section 22-17-8A et seq.* (Ord. 3-15-06; Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

**Sec. 22-13-3. Area regulations.**

- (A) The minimum area for each ~~mobile~~ *manufactured* home park shall be five (5) acres. (Minimum number of spaces completed and ready for occupancy before first occupancy is permitted shall be ten (10)).
- (B) Area. The minimum lot area of each individual *mobile or manufactured* home lot shall be six thousand (6000) square feet.

**Sec. 22-13-4. Setback regulations.**

- (A) ~~Mobile~~ *Manufactured* home parks shall be located fifty (50) feet or more from any street right-of-way but not less than seventy-five (75) feet from the center line of the street. Lots fronting streets within ~~mobile~~ *manufactured* home parks (interior lots) shall conform with subsection (b) below. The foregoing notwithstanding, every ~~mobile~~ *manufactured* home within any such ~~mobile~~ *manufactured* home park shall be set back from any abutting public road not less than the setback required for the property abutting the ~~mobile~~ *manufactured* home park across such public road.
- (B) No ~~mobile~~ *manufactured* home lot shall be placed less than twenty-five (25) feet from any adjoining property line.
- (C) No ~~mobile~~ *manufactured* home shall be placed less than ten (10) feet from any lot or within 25 feet of another ~~mobile~~ *manufactured* home.

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<sup>3</sup> Editor’s Note – This section as originally adopted was misnumbered as “Sec. 22-13-1.” This clerical error has been corrected by the editor.

### **Sec. 22-13-5. Frontage regulations.**

The minimum frontage for each ~~mobile~~ *manufactured* home lot shall be sixty (60) feet with a minimum 30 feet street frontage.

### **Sec. 22-13-6. Required improvements within lots.**

- (A) Markers for ~~mobile~~ *manufactured* home lots. Every ~~mobile~~-*manufactured* home lot shall be clearly defined on the ground by permanent markers. There shall be posted and maintained in a conspicuous place on each lot a number corresponding to the number of each lot as shown on the site plan submitted so that each lot may be easily identified.
- (B) Streets. All streets, both public and private, serving ~~mobile~~ *manufactured* home lots, shall conform to the construction standards of the Virginia Department of Transportation. Curb and gutters are encouraged; however, in the event that they are not provided, adequate drainage facilities shall be provided.
- (C) Parking spaces. In each ~~mobile~~ *manufactured* home park, parking spaces shall be provided at the rate of at least two car spaces for each ~~mobile~~*manufactured* home lot. Space for one car of the required two car spaces shall be provided upon the lot, but if not so provided, in parking bays located convenient to such lots. Each such parking space shall be not less than ten feet wide and twenty feet deep, shall be surfaced for its entire area with a durable, hard surface material, suitable for all weather use, and shall have unobstructed access to a public street or highway. No parking space shall be more than three hundred (300) feet from the ~~mobile~~-*manufactured* home lot which it serves.
- (D) Water supply. An adequate supply of water approved by the State Health Department shall be furnished from a public water supply system or from a central water system conforming to all applicable laws, regulations, resolutions, and ordinances, with water connections located on each ~~mobile~~ *manufactured* home lot. No drinking water containers or fountains shall be located in any room housing toilet facilities. All water lines shall be made frost-free.
- (E) Sewerage facilities. In each ~~mobile~~ *manufactured* home park, all waste or waste water from a faucet, toilet, tube, shower, sink, slop-sink, drain, washing machine, garbage disposal unit or laundry shall empty into one or more public or central sewer systems approved by the Fluvanna County Health Department.
- (F) Garbage and trash disposal. Each lot within a ~~mobile~~ *manufactured* home park shall be provided with at least one tight-fitting, closed-top garbage or trash container, and collection and disposal shall be provided at a frequency to assure it will not overflow.
- (G) Lighting and electric receptacle outlets. Public areas of ~~mobile~~ *manufactured* home parks shall be adequately lighted so as to permit safe movement of vehicles and pedestrians at night. All exterior lights in each park shall be located and when necessary shielded so as to

prevent direct illumination of sleeping areas. At least one grounded type receptacle outlet shall be provided each lot.

- (H) Utilities. All utility service shall be underground to each lot.
- (I) Recreational areas. There shall be provided a minimum of 30,000 square feet of recreational area, exclusive of required setback and yard requirements, per each thirty (30) ~~mobile~~ *manufactured* home lots or multiple or fraction thereof.
- (J) Additions to ~~mobile~~ *manufactured* homes. No permanent or semi-permanent structure shall be affixed to any ~~mobile~~ *manufactured* home as an addition to such mobile home. The prohibition herein against any addition or accessory to a ~~mobile~~ *manufactured* home shall not apply to a canopy or awning designed for use with a ~~mobile~~ *manufactured* home, nor to any expansion unit or accessory structures specifically manufactured for ~~mobile~~ *manufactured* homes. The lot coverage of a ~~mobile~~ *manufactured* home, together with an expansion or accessory structure permitted thereto by this article shall not exceed twenty percent of the total ~~mobile~~ *manufactured* home lot area.
- (K) Height regulations. No ~~mobile~~ *manufactured* home shall exceed fourteen (14) feet in height nor shall any storage facility or other accessory structure exceed the height of any ~~mobile~~ *manufactured* home which it serves. Utilities, television antennae and radio aerials are exempt.
- (L) ~~Mobile~~ *Manufactured* home standards. Every ~~mobile~~ *manufactured* home occupied as a dwelling unit in Fluvanna County shall meet the minimum standards of the Virginia *Manufactured Home Safety Regulations and shall have been manufactured under the authority of the National Manufactured Home Construction and Safety Standards Act, Industrialized Building Unit and Mobile Home Safety Regulations*, as the same shall be in effect from time to time.
- (M) Anchorage. Every parking space for ~~mobile~~ *manufactured* homes shall be provided with devices for anchoring the unit to prevent overturning or uplift. The anchorage shall be adequate to withstand wind forces and uplift as required for buildings and structures in the Virginia Uniform Statewide Building Code.

**Sec. 22-13-7. Site plan required.**

Each ~~mobile~~ *manufactured* home park shall be subject to the provisions of Article 23: *Site Development Plans* of this chapter.

.....  
**Article 14. PLANNED UNIT DEVELOPMENT DISTRICT (PUD)**  
 .....

**Sec. 22-14-8. Density.**

- (1) The maximum residential base density permitted for individual land uses to be located in the PUD districts shall be as follows in Table 1 below.

(2) The allowable density for individual uses within the PUD District shall be calculated based on the Net Acreage of the land subject to the PUD zoning amendment application. The calculation of minimum and maximum yield for individual uses shall be based on the application of the minimum and maximum density for each use (see Table 1) to an adjusted Net Acreage. The Net Acreage reduces the gross area of the PUD land by the total of the non-qualifying land components within property. The Net Acreage = Gross Acreage - Non-Qualifying Area (acreage of the sum of the Non-Qualifying land components.) The components that comprise the Non-Qualifying areas include:

- area of existing dedicated public rights of way and easements,
- areas depicted on an adopted Official Transportation Map for future public improvements,
- area of existing land uses and structures, including platted lots, that are intended to remain as a part of the PUD project,
- areas deemed unbuildable due to geological, soils, or other environmental deficiencies,
- areas of wetlands and floodplains (as defined by FEMA 100-year floodplain or engineering study),
- area of existing ponds, stormwater management facilities, and water features that are not defined as wetlands or floodplains, and
- area of terrain with slopes in excess of thirty percent (30%).

<b>PUD District Density Regulations</b>								
<b>Community Planning Area</b>	<b>Minimum &amp; Maximum Density</b>							
	Dwelling Units <i>per</i> acre for Residential – Floor Area <i>Ratio</i> for Commercial							
	<b>Single Family</b>		<b>Townhouses</b>		<b>Multifamily</b>		<b>Commercial</b>	
	min.	max.	min.	max.	min.	max.	min.	max.
Zion Crossroads Community Planning Area		6		9		16		
Zion Crossroads Urban Development Area	4	6	6	9	12	16	0.4	
Rivanna Community Planning Area		4		6		12		
Palmyra Community Planning Area		4		6		12		
Fork Union Community Planning Area		4		6		12		
Columbia Community Planning Area		4		6		12		

Scottsville Community Planning Area	4	6	12	
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**Table 1: PUD Density Regulations**

(3) An increase in the maximum residential density for a PUD district may be permitted in the following instances:

Open Space:

If 50% or more of the gross area of a PUD is preserved as open space, then a 20% increase in density may be permitted. If 75% or more of the gross area of a PUD is preserved as open space, then a 30% increase in density may be permitted.

Affordable Housing (as defined in the Comprehensive Plan):

If between 10% and 15% of the total number of dwelling units within a PUD are reserved for affordable housing, then a 20% increase in density may be permitted. If more than 15% of the total number of dwelling units within a PUD are reserved for affordable housing, then a 30% increase in density may be permitted.

Open Space and Affordable Housing:

Density bonuses may also be permitted with a combination of both open space and affordable housing. The increase in density that may be permitted shall be based on the following combinations of open space and affordable housing:

<b>Open Space Provided</b>	<b>Affordable Housing Provided</b>	<b>Density Bonus Permitted</b>
50%	10-15%	35%
50%	+ >15%	45%
75%	10-15%	40%
75%	+ >15%	50%

Transfer/Purchase of Development Rights:

(Reserved for future Transfer of Development Rights/Purchase of Development Rights density bonuses)

(Ord. 8-5-09; Ord. 11-16-11)

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**Article 15. SIGN REGULATIONS**  
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**Sec. 22-15-4.1 “Going out of business” and “Special” sales.<sup>4</sup>**

(A) All persons must obtain a permit from the county in order to advertise or conduct a sale for the purpose of discontinuing a retail business, or to modify the word “sale” in any

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<sup>4</sup> For state law requiring the county to oversee and permit such sales, see Code of Va., §§ 18.2-223, 18.2-224.

*advertisement with the words “going out of business” or any other words which tend to insinuate that the retail business is to be discontinued and the merchandise liquidated.*

*(B) The applicant shall submit an application for a permit to the county administrator, or his designee, which shall include the following:*

*(1) A statement of the purpose of the sale (i.e. liquidation of assets, terminating retail business);*

*(2) An inventory including the kind and quantity of all goods to be offered for sale during the sale;*

*(3) A copy of any proposed advertisements which may be posted or published in connection with the special sale; and*

*(4) A fee of \$65 for the processing of the permit, which shall not be refunded.*

*(C) Upon receipt of the complete application and fee, the county administrator or his designee, shall issue a special sale permit which shall be valid for a maximum of sixty (60) days. An extension of the sale or additional sale shall require an additional permit application and fee as described above. A maximum of one permit beyond the initial sixty (60) day permit may be granted solely for the purpose of liquidating only those goods contained in the initial inventory list which remain unsold.*

*(D) The permittee shall prominently display the permit number and effective dates of the special sale on any and all advertisements for such sale. The permittee may not advertise along with its special sale any goods not listed in the inventory provided to the county in its application.*

*(E) The permittee may not commingle or add to the special sale any goods not listed in the inventory list provided to the county. Upon proof that the permittee has commingled or added goods not listed in the inventory list to the special sale, the county may revoke the special sale permit.*

*(F) The county administrator’s designee shall inspect the advertisement and conducting of the special sale to insure it is being advertised and conducted in conformity with the permit.*

*(G) Advertising or conducting a special sale without a permit, as required by this section, shall be punishable as a Class 1 misdemeanor.*

.....  
**Article 16. Nonconforming Uses**  
.....

**Sec. 22-16-8. Repair and restoration after damage.**

*(A) Where in any zone, a conforming structure devoted to a non-conforming activity or a nonconforming structure is destroyed or damaged in any manner, whether wholly or partially, either may be repaired or restored provided such repair or restoration is started*

within twelve months from the date of damage or partial destruction. Such restoration shall not exceed 200% of its size in square footage when destroyed. Any such expansion exceeding 100% of the original structure shall conform with the yard requirements of this ordinance. *Any such repair or restoration must be carried out in compliance with the Uniform Statewide Building Code and Fluvanna County flood plain regulations, as required by the Code of Virginia § 15.2-2307.*

(B) ~~B. RESERVED~~ *If a nonconforming structure is in an area under a federal disaster declaration and the structure has been damaged or destroyed as a direct result of the conditions that gave rise to the federal disaster declaration, then it may be repaired or restored for an additional two (2) years after the time permitted in subsection (a) above.*

(C) ~~C.~~ Any *manufactured mobile*-home which was lawfully in existence in the county on the effective date of this ordinance may be replaced by another mobile home, subject to the following:

- (1) The replacement *manufactured mobile*-home shall contain the same or greater floor area as the *manufactured mobile*-home being replaced;
- (2) The replacement *manufactured mobile*-home shall comply with all building and construction codes in the Commonwealth of Virginia applicable to *manufactured mobile*-homes;
- (3) The replacement *manufactured mobile*-home shall be located on the same parcel so as to comply with all yard and setback requirements of the ordinance unless the dimensions of the parcel are such that such compliance is infeasible, in which case the replacement *manufactured mobile*-home shall be located substantially in the same location as the *manufactured mobile*-home being replaced;
- (4) The *manufactured mobile*-home being replaced shall be removed from the parcel no later than *ninety* (90) days after the replacement *manufactured mobile*-home is placed on the parcel.
- (5) There shall be no dual occupancy when such *manufactured mobile*-homes are being replaced.
- (6) The replacement *manufactured mobile*-home shall be located on the parcel not more than *ninety* (90) days after removal of the *manufactured mobile*-home to be replaced.

.....  
**Article 17. General Provisions**

**Sec. 22-17-1. Zoning permits.**

(A) Buildings or structures shall be started, reconstructed, or enlarged only after a zoning permit has been obtained from the administrator or his designated agent.

(B) Each application for a zoning permit shall be accompanied by a site plan which complies with the provisions of Article 23: *Site Development Plans* of this chapter. In the case of any building, structure or use which is exempt from the provisions of Article 23, a sketch plan shall be submitted. Each such sketch plan shall show the property in such detail as the administrator may deem necessary to ensure compliance with this chapter. Except as may otherwise be required in a particular case, such sketch shall show the size and shape of the parcel of land on which the proposed building, structure or use is to be established, the nature of the proposed use of the building or land, and the size, shape and location of such building,

structure or use with respect to the property lines of said parcel of land and to the right-of-way of any street or highway adjoining said parcel of land, including all setbacks and required yards as prescribed by this chapter and by all applicable deed restrictions known to the applicant. *The sketch plan shall also include any* ~~Any~~ other information which the administrator may deem necessary for construction of the application ~~may be required~~. If the proposed building, structure or use is in conformity with the provisions of this chapter, a permit shall be issued to the applicant by the administrator.

- (C) Activity for which a zoning permit was issued must commence within twenty-four months or such permit shall expire and be of no further effect.

.....  
**Sec. 22-17-6. Widening of highways and streets.**

Whenever there shall be plans in existence *for* a project in the Secondary or Primary Six Year Plan that has been approved by the Virginia Department of Transportation and the governing body for the widening of any street or highway, the administrator may require additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right of way, in order to preserve and protect the right of way for such proposed street or highway widening.

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**Sec. 22-17-9. Conditional rezoning.<sup>5</sup>**

- (A) As part of a rezoning or amendment to the zoning map, the owner of any property subject to any application for such rezoning or amendment to the zoning map, may voluntarily proffer, in writing submitted to the zoning administrator prior to a public hearing before the governing body, reasonable conditions for such rezoning or amendment to the zoning map, in addition to the regulations provided for the zoning district by this chapter, provided that such proffered conditions comply in full with all provisions of Sections 15.2-2297 and 15.2-2298 of the Code of Virginia.
- (B) Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions; however, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance. No amendment or variation of conditions created pursuant to this section shall take effect until after a public hearing before the governing body advertised in accordance with Section 15.2-2204 of the Code of Virginia. Except as the governing body may expressly provide in a particular case, each such condition shall be deemed to be integral to, and nonseverable from, the rezoning or amendment to the zoning map to which it applies.
- (C) No proffer for the dedication of real property or payment of cash shall be accepted unless the county has adopted a capital improvement program pursuant to Section 15.2-2239 of the Code of Virginia. No such dedication or cash payment shall be made until the facilities for which such property is dedicated or cash is tendered are included in the capital improvement program, provided that nothing herein shall prevent the county from accepting proffered

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<sup>5</sup> As to state law regarding conditional rezoning, see Code of Va., § 15.2-2296 et seq.

conditions which are not normally included in such capital improvement program. If such proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered.

(D) In the event proffered conditions include a requirement for the dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendment to the zoning map for the property subject to such conditions, nor the conditions themselves, nor any amendments to the text of the ordinance with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to such property shall be effective with respect to such property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

(E) Nothing in this section shall be construed to affect or impair the authority of the governing body to:

(a) (1) Accept proffered conditions which include provisions for timing or phasing of dedications, payments or improvements; or

(b) (2) Accept or impose valid conditions pursuant to subsection (A)(3) of Section 15.2-2286 of the Code of Virginia or other provision of law.

(F) The zoning map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The zoning administrator shall keep in his office and make available for public inspection a Conditional Zoning Index. The Index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district or zone. The zoning administrator is vested with all necessary authority on behalf of the governing body and pursuant to Section 15.2-2299 of the Code of Virginia to administer and enforce conditions attached to a rezoning or amendment to a zoning map, though all decisions made pursuant to this section are subject to appeal to the governing body according to the procedures described in Section 15.2-2301 of the Code of Virginia.

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**Sec. 22-17-15. Special exception for placement of ~~mobile~~ a manufactured home.**

The zoning administrator may approve placement of a *manufactured* ~~mobile~~ home in the event that a residence is destroyed or made unlivable by fire, flood, wind, or other natural causes, provided that placement shall be for a period not longer than 12 months from the date of occurrence of the event, and also provided that written approval is obtained from the respective property owners association, if any.

**Sec. 22-17-16. Special use permit for power production plants.**

A power production plant may be constructed pursuant to Section 22-4-2.2 and section 22-17-4 of this chapter, upon showing by the applicant of the following:

(1) The proposed location for the power plant is supported by a clear dependence upon the confluence of utilities necessary for the operation of the power production plant and the transmission of the electricity the plant generates;

(2) The proposed power plant will not be of substantial detriment to adjacent property and the general character of the district will not be changed as a result of its operation. This shall be accomplished, in part, by meeting the following minimum criteria:

(a) The proposed site shall be a minimum of 300 acres and allow for at least 87% of the property to be left as open space;

(b) The proposed site features natural vegetation or topographical features that provide for ample perimeter screening and buffering to minimize any visual or other impacts on adjacent property;

(c) The proposed location has adequate access to the road system and shall not create or exacerbate traffic congestion;

(1) In addition to meeting the minimum site-related criteria listed in (a), (b) and (c) above, the design of the proposed electrical power production plant shall be subject in all respects to the provisions of this chapter except as listed in (a) through (e), below. These exceptions shall be deemed to be compatible with the general character of the district and provide further protection of adjacent property from potential adverse impacts:

(a) The height of any buildings or structures shall not exceed the lesser of 145 feet above ground level or the height of the tallest chimney as determined by paragraph (b) below;

(b) The height of any chimney shall not exceed the lesser of 145 feet above ground level or the height determined by "good engineering practice" as determined by the State Air Pollution Control Board or the Department of Environmental Quality pursuant to applicable regulations addressing stack heights;

(c) The amount of impervious surface coverage shall be thirteen per cent (13%) or less, provided that storm water detention ponds or reservoirs shall be considered pervious surface(s);

(d) Any buildings or structures over *twelve* (12) feet in height, ~~other than public utility structures subject to the provisions of Section 22-17-14 of this chapter,~~ shall be located a minimum of 300 feet distant from adjoining property lines or edge of road rights-of-way;

(e) There shall be a minimum of 300-foot wide vegetated buffer around the development which, in all other respects, conforms to the County landscaping requirements to be reviewed and approved along with the other requirements of a site development plan;

(4) In addition to obtaining zoning approval from Fluvanna County, the proposed power plant also will obtain, and maintain, valid permits as required by all other regulatory bodies of the state and federal governments.

.....  
**Article 18. Provisions for Appeal and Variance**

**Sec. 22-18-1. Board of zoning appeals.<sup>6</sup>**

(a) A board consisting of five (5) members shall be appointed by the Circuit Court of Fluvanna County. *Members of the board shall be residents of Fluvanna County.* Members of the board may receive such compensation as may be authorized by the governing body. Members shall be removable for cause by the appointing court after hearing held after at least fifteen (15) days' notice. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

(b) The term of office shall be for five (5) years, except that of the first five (5) members appointed, one (1) shall serve for five (5) years, one (1) for four (4) years, one (1) for three (3) years, one (1) for two (2) years and one (1) for one (1) year. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his successor is appointed and qualifies. Members of the board shall hold no other public office in the county, except that one of the five appointed members may be an active member of the planning commission.

(c) Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has a legal interest.

(d) The board shall choose annually its own chairman and vice chairman who shall act in the absence of the chairman. The board may elect as its secretary either one of its members or a qualified individual who is not a member of the board. A secretary who is not a member of the board shall not be entitled to vote on matters before the board.

**Sec. 22-18-1.1. Ex parte communications and proceedings.<sup>7</sup>**

(A) *The non-legal staff of the governing body may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. The applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. If any ex parte discussion of facts or law does occur, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication and the identity of the individuals*

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<sup>6</sup> As to state law authorizing the formation of the county's board of zoning appeals, see Code of Va., § 15.2-2308.

<sup>7</sup> As to state law provisions regarding board of zoning appeals ex parte communications and proceedings, see Code of Va., § 15.2-2308.1.

*involved in the communication. For the purposes of this section, regardless of whether all parties participate, ex parte communications shall not include (i) discussions as part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner or his agent or attorney are all invited.*

*(B) Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the board, shall be made available without cost to such applicant, appellant or other person aggrieved under Virginia Code Section 15.2-2314, as soon as practicable thereafter, but no more than three (3) business days after providing such materials to a member of the board. If the applicant, appellant or other person aggrieved under Virginia Code Section 15.2-2314 requests additional documents or materials be provided by the locality other than those materials provided to the board, such request shall be made in accordance with the FOIA requirements in Virginia Code Section 2.2-3704. Any such materials furnished to a member of the board shall also be made available for public inspection as required by Virginia Code Section 2.2-3707(F).*

*(C) For the purposes of this section, “non-legal staff of the governing body” means any staff who is not in the office of the county attorney, or for the board, or who is appointed by special law. Nothing in this section shall preclude the board from having ex parte communications with any attorney or staff or any attorney where such communication is protected by attorney-client privilege or other similar privilege or the protection of confidentiality.*

*(D) This section shall not apply to cases where an application for a special exception has been filed pursuant to this chapter.*

### **Sec. 22-18-2. Powers of the Board of Zoning Appeals.<sup>8</sup>**

The Board of Zoning Appeals shall have the following powers and duties:

**(A)** To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this ordinance or of any ordinance adopted pursuant thereto.

*(1) The decision on such appeal shall be based on the board’s judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct.*

*(2) At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden to rebut such presumption of correctness by a preponderance of the evidence.*

*(3) The board shall consider any applicable ordinances, laws, and regulations in making its decision. For the purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer.*

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<sup>8</sup> As to state law regarding powers of the board of zoning appeals, see Code of Va., § 15.2-2309.

(4) *Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.*

(B) *Notwithstanding any other provision of law, general or special, to grant ~~To authorize~~ upon appeal or original application in specific cases ~~such a variance as defined by Virginia Code Section 15.2-2201 from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows: the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in Virginia Code Section 15.2-2201 and the criteria set out in this section, as follows:~~*

(1) ~~When a property owner can show that his~~ *Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance and*

*(i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; ~~where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.~~*

*(ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*

*(iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*

*(iv) the granting of such variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and*

*(v) the relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance at the time of the filing of the variance application.*

~~2. No such variance shall be authorized by the board unless it finds: (a) that the strict application of the ordinance would produce undue hardship; (b) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (c) that the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.~~

~~3. (2) No such variance shall be authorized~~ *considered* except after notice and hearing as required by Section 15.2-2204 of the Code of Virginia, as amended; however, notice of such hearing may be given via first-class mail rather than registered or certified mail pursuant to Section 15.2-2309 of the Code of Virginia.

~~4. No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.~~

~~5. (3) In authorizing~~ *granting* a variance the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

(C) To hear and decide appeals from the decision of the zoning administrator. No such appeal shall be heard except after notice and hearing as provided by Section 15.2-2204 of the Code of Virginia; however, notice of such hearing may be given via first-class mail rather than registered or certified mail pursuant to Section 15.2-2309 of the Code of Virginia.

(D) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by Section 15.2-2204 of the Code of Virginia, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, notice of such hearing may be given via first-class mail rather than registered or certified mail pursuant to Section 15.2-2309 of the Code of Virginia. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

(E) No provision of this section shall be construed as granting any board the power to rezone property *or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.*

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**Sec. 22-18-4. Applications for variances, appeals to the Board of Zoning Appeals.<sup>9</sup>**

(A) Applications for variances may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the zoning administrator in accordance with rules adopted by the board. The application and accompanying maps, plans or

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<sup>9</sup> *As to state law regarding appeals to the board of zoning appeals, see Code of Va., § 15.2-2311.*

other information shall be transmitted promptly to the secretary of the board who shall place the matter on the docket to be acted upon by the board. The zoning administrator shall also transmit a copy of the application to the local commission which may send a recommendation to the board or appear as a party at the hearing. Substantially the same application will not be considered by the board within one year after the decision of the board.

(B) An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the county affected by ~~such~~ *any* decision of the zoning administrator *or from any order, requirement, decision or determination made by any other administrative officer in the administration and enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to this chapter.*

*(1) Any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within thirty (30) days in accordance with this section, and that the decision shall be final and unappealable if not appealed within thirty (30) days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given. A written notice of a zoning violation or a written order of the zoning administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this section.*

*(2) Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. ~~Pursuant to Section 15.2-2311 of the Code of Virginia, the zoning administrator shall attach to any written notice of a zoning violation or any written order a statement informing the recipient that he may have a right to an appeal within thirty days, and that the zoning administrator's decision shall become final and unappealable if not filed within thirty days.~~*

*(3) Upon the filing of the appeal, the ~~The~~ zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken.*

*(4) A decision by the board on appeal shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided notice of the zoning violation or written order of the zoning administrator. The owner's actual notice of such notice of zoning violation or written order or active participation in the appeal hearing shall waive the owner's right to challenge the validity of the board's decision due to failure of the owner to receive the notice of zoning violation or written order.*

(5) An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

(6) In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after sixty days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The sixty-day limitation period shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical or other nondiscretionary errors.

(C) *In any appeal taken pursuant to this section, if the board's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.*

**Sec. 22-18-5. Appeal procedure.**

(A) Applications for variance and appeals shall be filed with the board of zoning appeals in care of the zoning administrator.

(B) Appeals and applications for variance requiring an advertised public hearing shall be accompanied by a filing fee as determined by a fee schedule adopted by resolution of the governing body. *The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs, as provided in Section 15.2-2311(A0 of the Code of Virginia.* (Ord. 9-21-05)

(C) All other procedural requirements of Section 15.2-2312 of the Code of Virginia shall be observed by the board of zoning appeals.

(D) *For the conduct of any hearing, a quorum shall not be less than three members of the board and the board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved, and the staff of the local governing body, pursuant to Section 15.2-2308 of the Code of Virginia.*

**Sec. 22-18-6. Public hearing.<sup>10</sup>**

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<sup>10</sup> *As to state law regarding the timing of public hearing and powers of the board of zoning appeals, see Code of Va., § 15.2-2312.*

The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within ninety days. In exercising its powers, the board may reverse or affirm wholly or partly, or may modify, the order, requirement, decision or determination of an administrative officer or decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance.

**Sec. 22-18-7. Certiorari to review decisions of board of zoning appeals.**

- (A) Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any taxpayer or any officer, department, board or bureau of the county, may present to the circuit court of the county a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the board.
- (B) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.
- (C) The board of zoning appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof as may be called for by such writ. The return shall concisely set forth such facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- (D) ~~If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.~~ The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
- (E) Costs shall not be allowed against the board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from. In the event the decision of the board is affirmed and the court finds that the appeal was frivolous, the court may order the person or person who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the writ of certiorari.

***Section 22-18-7.1. Presumptions and burdens of proof.***

- (A) *In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision, or any modification of zoning requirements, the findings and conclusions of the board of zoning*

*appeals on questions of fact shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision. The court shall hear any arguments on questions of law de novo.*

*(B) In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted an application for a variance, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut the presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision.*

*(C) In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted application for a special exception, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that the board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board (i) was plainly wrong, (ii) was in violation of the purpose and intent of the zoning ordinance, and (iii) is not fairly debatable.*

*(D) In the case of an appeal from the board of zoning appeals to the circuit court of a decision of the board, any party may introduce evidence in the proceedings in the court in accordance with the Rules of Evidence of the Supreme Court of Virginia.*

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**Article 21. Administration and Interpretation**  
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**Sec. 22-21-3. Interpretation.**

Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

(a) Where district boundaries are indicated as approximately following or being at right angles to the center lines of streets, highways, alleys, or railroad main tracks, such center lines or lines at right angles to such center lines shall be construed to be such boundaries, as the case may be.

(b) Where a district boundary is indicated to follow a river, creek or branch or other body of water, said boundary shall be construed to follow the center line at the low water or at the limit of the jurisdiction and in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline.

(c) If no distance, angle, curvature, description or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined

by the use of the scale shown on said zoning map. In the case of subsequent dispute, the matter shall be referred to the Board of Zoning Appeals which shall determine the boundary.<sup>11</sup>

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**Article 22. Definitions**

**Sec. 22-22-1. Rules of construction; definitions.**

The following terms shall have the meanings assigned to them as hereinafter set forth. Except as expressly otherwise defined herein, all terms used in this chapter shall have their ordinary and established meanings, as the context may require. A word importing the masculine gender only may extend and be applied to females and to corporations as well as males. A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing; and a word importing the plural number only may extend and be applied to one person or thing as well as to several persons or things.

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ASSISTED LIVING FACILITY: A publicly or privately operated long-term care alternative for persons aged 55 and over, or persons with disabilities, as defined by the Federal Americans with Disabilities Act, that provides the availability of professionally managed personal and health care services to occupants on premises. These premises are designed for this population; are residential in character and appearance; may include cooking facilities; and in all respects are intended to enable residents to age in place in a home-like environment. The facility operation shall have the capacity to provide residents with an array of services supporting Activities of Daily Living (ADL's) that may include, but are not necessarily limited to, meals, personal care housekeeping, transportation, and supervision of self-administered medication, while optimizing their physical and psychological independence. Such facility shall be deemed a single unit for purpose of calculating density *when and as required by the Code of Virginia Section 15.2-2291*.

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CENTRAL SEWERAGE SYSTEM: A sewerage system consisting of pipelines or conduits, pumping stations, force mains or sewage treatment plants, including, but not limited to, septic tanks and/or drain fields, or any of them designed to serve three or more connections, used for conducting or treating sewage which is required to be approved by the board of supervisors *in accordance with the Virginia Waste Management Act. pursuant to Title 15.1, Chapter 9, Article 9 of the Code of Virginia*. See *Utilities, major and minor uses*.

CENTRAL WATER SUPPLY: A water supply consisting of a well, springs or other source and the necessary pipes, conduits, mains, pumping stations and other facilities in connection therewith, to serve or to be capable of serving three or more connections, which is required to be approved by the board of supervisors *in accordance with the Virginia State Water Control Board Regulations. pursuant to Title 15.1, Chapter 9, Article 7 of the Code of Virginia*. See *Utilities, major and minor uses*.

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CHILD DAY CENTER: *A child day program offered to (i) two (2) or more children under the age of thirteen in a facility that is not the residence of the provider or of any of the children in*

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<sup>11</sup> As to state law provisions regarding district boundary lines, see Code of Va., § 15.2-2309(4).

care or (ii) thirteen (13) or more children at any location. See also *CHILD DAY PROGRAM, FAMILY DAY HOME*.

*CHILD DAY PROGRAM*: A regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of thirteen for less than a 24-hour period. See also *CHILD DAY CENTER, FAMILY DAY HOME*.

*DAYCARE CENTER*: See *CHILD DAY CENTER, CHILD DAY PROGRAM, FAMILY DAY HOME*. ~~A facility operated for the purpose of providing care, protection and guidance to ten (10) or more individuals during only part of a 24-hour day. This term includes nursery schools, preschools, daycare centers, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.~~

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*FAMILY DAY HOME*: A child day program offered in the residence of the provider or the home of any of the children in care for one (1) through twelve (12) children under the age of thirteen, exclusive of the provider's own children and any children who reside in the home, when at least one (1) child receives care for compensation. Family day homes serving six (6) through twelve (12) children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four (4) children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all grandchildren of the provider shall not be required to be licensed. See also *CHILD DAY CENTER, CHILD DAY PROGRAM*.

*FAMILY DAYCARE HOME*: See *CHILD DAY CENTER, CHILD DAY PROGRAM, FAMILY DAY HOME*. ~~A single family dwelling in which more than five (5) but less than thirteen (13) individuals are received for care, protection, and guidance during only part of a twenty four (24) hour day. Individuals related by blood, legal adoption, or marriage to the person who maintains the home shall not be counted towards this total. The care of five (5) or fewer individuals for portions of a day shall be considered as a home occupation.~~

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*INOPERABLE MOTOR VEHICLE*: (i) any motor vehicle which is not in operating condition; (ii) any motor vehicle which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle; or (iii) any motor vehicle on which there are displayed neither valid license plates nor a valid inspection decal, as provided in Code of Virginia Section 15.2-904.

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*MEDIA, ADULT*: Magazines, books, videotapes, movies, slides, CD-ROMs, DVDs or blu-ray or other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. See *Retail store, adult use*.

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*NURSING HOME*: Any place or institution, ~~other than a hospital, for the aged, infirm, senile, chronically ill, or convalescent established to render domiciliary care, custodial care, treatment or lodging to three (3) or more nonrelated persons.~~ facility, or any identifiable component of any

facility, other than a hospital, licensed pursuant to the Code of Virginia, Section 32.1-123, in which the primary function is the provision, on a continuing basis, of nursing and health-related services for the treatment and inpatient care of two (2) or more nonrelated individuals, including, but not limited to, facilities known as convalescent homes, skilled nursing facilities, skilled care facilities, intermediate care facilities, extended care facilities, and nursing or nursing care facilities.

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PARKING BAY: A continuous row of parking, containing twenty (20) parking spaces or less, bounded on both ends by a parking island, as specified in Article 22 26: *Off-Street Parking and Loading Spaces* of this chapter.

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UTILITY, MAJOR: Facilities for the distribution, collection, treatment, production, transmission and generation of public, private and central utilities including, but not limited to, transmission lines, production plants, electrical substations, pumping stations, treatment facilities, *information* and communication facilities.

UTILITY, MINOR: Facilities for the distribution and collection of public, private and central utilities including poles, lines, transformers, pipes, meters, *information* and communication distribution lines.

VARIANCE: A variance is a *reasonable deviation from the provisions of the zoning ordinance regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done. It shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning.* ~~relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure of size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or adjoining zoning districts.~~

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WOODSTORAGE, TEMPORARY: A lot utilized for the temporary (30, 60, or 90 days) storage/loading of forestry products transported from some other location.

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**Article 23. Site Development Plans**  
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**Sec. 22-23-6. Site plan content.**

(1) The site plan, or any portion thereof, involving engineering, urban planning, landscape architecture, architecture, or land surveying, shall be prepared by a qualified person.

(2) Final site plans submitted for approval shall be certified by an architect, landscape architect, engineer, or land surveyor licensed or certified to practice by the Commonwealth of Virginia within the limits of his respective license or certification.

(3) ~~All~~ The minor or major site plans shall include:

(A) The proposed title of the project and the name of the engineer, architect, landscape architect, surveyor, and developer, as applicable.

(B) A signature panel for the Director of Planning to indicate approval.

(C) ~~A north~~ North arrow, scale graphic, and date.

(D) A vicinity map.

(E) ~~The existing~~ Existing zoning and zoning district boundaries on the property in the development and on immediately surrounding properties; ~~all~~ ~~All~~ special zoning requirements attached directly to the site as a result of the issuance of any Special Use Permit, variance, or rezoning; ~~and the proposed~~ ~~Proposed~~ changes in zoning, if any.

(F) The boundaries of the property in the development, including bearings and distances.

(G) All existing property lines, existing streets or rights-of-way opened or unopened; buildings, watercourses, and lakes; and other existing physical features in or adjoining the project. The physical features, such as watercourses, waterways and lakes on the adjoining properties need only be shown in approximate scale and proportion.

(H) ~~The features~~ Features of particular historic, cultural, scientific, or scenic significance as identified in the Comprehensive Plan, by the Director of Planning, or by any County department or state agency having site plan review responsibilities, or by the Virginia Department of Historic Resources the Virginia Department of Conservation and Recreation, or the Virginia Outdoors Foundation including, but not limited to, historic features, archaeological features, and graveyards.

(I) ~~The building~~ Building setback lines; the location of all proposed buildings and structures, accessory and main; number of stories and height; proposed general uses for each building; and the number, size, and type of dwelling units where applicable; ~~and the preliminary~~ ~~Preliminary~~ plans and elevations for main and accessory buildings.

(J) ~~The type~~ Type, location, height, and materials of all existing and proposed fences and walls.

(K) ~~The site~~ Site coverage, showing percentage of site in buildings, parking, and open space.

(L) ~~All existing Existing~~ and proposed topography and contour lines of the development site with a contour interval of two (2) feet or less for major site plans, five (5) feet or less for minor site plans, supplemented where necessary by spot elevations.

(M) The location and size of sanitary and storm sewers, gas lines, water mains, culverts, and other underground structures; all overhead utilities and supporting poles in or affecting the development area, including existing and proposed facilities; and easements for these facilities.

(N) The location, dimension, and character of construction of proposed streets, alleys, and driveways; and the location, type and dimensions of means of ingress and egress to the site. When proposed streets intersect with or adjoin existing streets, both edges of existing pavement surface or curb and gutter must be indicated for a minimum of one hundred fifty (150) feet or the length of connection, whichever is the greater distance.

(O) The location of all existing and proposed off-street parking and parking bays, loading spaces, and pedestrian walkways, indicating types of surfacing, dimensions of stalls, width of aisles and a specific schedule showing the number of parking spaces. See Article 22-26 ~~Off-Street Off-street~~ Parking and Loading Spaces Requirements of this Ordinance. *To the greatest extent possible, parking areas shall not be located between the adjacent public right-of-way and the principal parking structure on the site unless topographic features or vegetation provide effective screening. Cul-de-sacs may not be construed or employed as a parking area.*

(P) The location on the site of all living trees with a diameter of twelve (12) inches or greater at DBH (diameter at breast height) proposed to be removed. The site plan shall show heavily wooded areas to be preserved, trees to be retained, removed, and planted, and designated by symbols coincident with the areas of the trees. See Article 22-24 Landscaping and Tree Protection of this Ordinance.

(Q) The location, height, and character of all outdoor lighting systems. See Article 22-25 Outdoor Light Control of this Ordinance.

(R) The location, character, height, means of lighting, and orientation of proposed signs. See Article 22-15 ~~Sign Regulations Signs~~ of this Ordinance.

(S) All paving, including, without limitation, gravel or other pervious surfaces, *which* shall be of a design and quality to support the traffic which can reasonably be expected to be generated by the proposed use, as required by Article 22-26 Off-Street Parking and Loading Spaces.

(T) ~~The limit of the Limit~~ of one-hundred-year floodplain, as defined in Section 22-23-14(a)(5).

(U) ~~The location Location~~ of any wetlands in compliance with applicable federal, state, and local definition of wetlands.

(V) The location and dimensions of proposed recreation or open space, and required amenities and improvements, including details of disposition, in accordance with any open space or recreation plan adopted by the County.

(W) Any necessary notes required by the Director of Planning to explain the purpose of specific items on the plan.

~~(X) Cul de sacs may not be construed or employed as a parking area. All suitable easements for future public water and sewer facilities necessary to serve the property shall be indicated on the plan.~~

(Y) All new electrical, telephone, cable television, fiber optic, and other utility lines on the site *which* shall be installed underground.

~~(Z) To the greatest extent possible, parking areas shall not be located between the adjacent public right of way and the principal structure on the site unless topographic features or vegetation provide effective screening.~~

(4) In the B-1 and B-C zoning districts, a variation to the setback regulations may be granted by the Planning Commission for projects in a community planning area that meet new urban/neo-traditional planning principles, and further the objectives and goals set forth in the comprehensive plan.

Primary considerations for such requests include:

- location of proposed development;
- size, scale, character, orientation of proposed development;
- adequacy of ROW for future transportation system (evaluate with input from VDOT)
- appropriateness of the proposed setback with surrounding development (proposed and/or existing);
- compatibility with the goals and objectives of the comprehensive plan (applicant should enumerate as many as possible); *and*
- compatibility with new urban/neo-traditional principles (applicant should enumerate as many as possible)

~~(A)~~(5) Site planning shall consider the future development of adjacent parcels as recommended by the Fluvanna County Comprehensive Plan or other approved local plan and as may be indicated by any filed site plan, whether approved or under review. The site plan shall provide for safe and convenient vehicular and pedestrian circulation between sites to be occupied by complementary uses.

~~(B)~~(6) In the B-1, B-C, I-1, and I-2 zoning districts, sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private.

(A) A variation to the sidewalk regulations may be granted by the Planning Commission for projects where:

- a) 1). The Virginia Department of Transportation prohibits the construction of sidewalks;
- b) 2). The physical conditions on the lot or adjoining lots, including but not limited to, existing structure and parking areas, existing utility easements, environmental features, or the size and shape of the lot, make it impossible or unfeasible to provide the required sidewalks;
- e) 3). The application of the ~~before-mentioned~~ *aforementioned* requirements would not further the goals of the Comprehensive Plan or otherwise serve the greater public's health, safety, and welfare.

(B) The applicant *for a variation to the sidewalk regulations* shall file a written request with the Department of Planning and Community Development stating why application of a sidewalk variation is necessary and how the ~~before-mentioned~~ *aforementioned* circumstances may apply to the property.

(C) The Planning Commission shall act on the variation request in conjunction with the county's action on the site plan, subdivision plat or special use permit or, if no such action is required, within sixty (60) days of the date the application was submitted and determined to be complete. The Planning Commission may grant the variation if ~~he~~ *it* determines that one or more applicable circumstances exist. In granting a variation, the Planning Commission may impose conditions deemed necessary to protect the public health, safety, or welfare.

(D) The denial of a variation, or the approval of a variation with conditions objectionable to the applicant, may be appealed to the Board of Supervisors. In considering a variation on appeal, the Board of Supervisors may grant or deny the variation based upon its determination of whether one or more applicable circumstances exist, amend any condition imposed by the Planning Commission, or impose any conditions deemed necessary to protect the public health, safety, or welfare.

(Ord. 5-4-11)

**Sec. 22-23-7. Additional improvements and standards for major site plans.**

The following improvements and minimum standards, as applicable, shall be required and provided for in a major site plan:

- (A) All streets and highway construction standards and geometric design standards shall be in accordance with those specified by Fluvanna County and the Virginia Department of Transportation.
- (B) The pavement of vehicular travel lanes, driveways, or alleys *shall be* designed to permit vehicular travel on the site and to and from adjacent property and parking areas.
- (C) All parking and other vehicular areas shall be so designed as to provide safe and convenient access by all vehicles which can reasonably be anticipated to use the site, including delivery and service vehicles as well as customer and employee vehicles.

(D) Safe and convenient pedestrian and bicycle access to, from, and within the site shall be provided.

(1) In the B-1, B-C, I-1, and I-2 zoning districts, sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private. A variation to the sidewalk regulation may be granted per Section ~~22-23-6(BB)~~: 22-23-6(6).

(E) Widening or extension of the nearest abutting developed street shall be provided as required by Fluvanna County and the Virginia Department of Transportation. Where the proposed development does not abut a developed public street, a plan of access shall be submitted for approval in conjunction with the site plan.

(F) Traffic control devices, signs, and pavement markings shall be required. Electric traffic control devices shall be provided by the developer where the anticipated traffic volumes from the proposed development exceeds the thresholds established by the Virginia Department of Transportation.

(G) All drainage structures and facilities shall be adequate to provide efficient and complete drainage of surface waters from the site into adequate channels. They shall comply with the standards and applicable provisions of the Virginia Erosion and Sedimentation Control Handbook of the Virginia Department of Environmental Quality, the Drainage Manual of the Virginia Department of Transportation, and the regulations of the Virginia Department of Environmental Quality.

(H) All public water supply and sewerage systems shall comply with the provisions hereof, *and obtain with*—all applicable approvals *and permits from* ~~of~~—Fluvanna County and the relevant Virginia Boards and Departments. ~~Department of Health.~~

(I) Provisions *shall be made* for the adequate disposition of surface water in accordance with design criteria and construction standards of the Fluvanna County, indicating location, sizes, types and grades of ditches, catch basins, and pipes; and connection to existing drainage systems.

(J) Provisions and schedules *shall be made* for approval of adequate control of erosion and sedimentation, in accordance with the Fluvanna County Erosion and Sedimentation Control program, *found in Chapter 6: Erosion and Sedimentation Control of this Code.*

(Ord. 5-4-11)

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**Article 24. Landscaping and Tree Protection**  
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**Sec. 22-24-3. Landscape Plan Contents.**

~~A.~~ The Landscape *plan Plan* shall include the following elements:

1. (A) ~~The existing~~ Existing and proposed contours at intervals of five (5) feet or less;—
2. (B) ~~All property~~ Property boundary lines;—
3. (C) ~~The limits~~ Limits of grading and clearing;—
4. (D) ~~The tree~~ Tree-protection zone(s) as applicable *and any and all information required for tree protection as indicated in Sections 22-24-8.1-3 of this Article*;—
5. (E) All proposed improvements;—
6. (F) ~~The existing~~ Existing and proposed underground and overhead utilities, including heights and/or depths;—
7. (G) ~~All rights of way~~ Rights-of-way and easements;—
8. (H) *An adequate, clearly identified, exterior water source; and*
  - (I) *All planting details including:*
    9. 1). ~~The botanical~~ Botanical—and common name, size, spacing, and location of all trees, shrubs, and ground cover, and the location and extent of planting beds in which they are to be planted, if any;—
    10. 2). ~~All plants~~ Plants—shall be labeled on the plan by direct call-out method or by symbols keyed to a plant list;—
    11. 3). A planting symbol *shall be provided* to illustrate the natural canopy/cover of trees and the extent of growth of shrubs at maturity;—
    12. 4). A plant list or matrix *shall be provided* showing the botanical name, common name, quantity, size, spacing, handling method, and general instruction, if any, specific to each plant;—
    13. 5). General details *shall be provided* illustrating the method of installation of plants, seeding, and sodding, including but not necessarily limited to size of plant pit, method of placement, backfill material, method of support, preparation of beds, mulch, etc. ;—
    14. 6). Special details *shall be provided* illustrating special conditions such as supplemental plant pit drainage, pruning for special effects, or other conditions requiring illustrated instructions;—
    15. 7). General notes *shall be provided* specifying the care and maintenance of plants for a period of three years following planting and the replacement of any dead, dying, or diseased vegetation required to be installed by this chapter for the life of the project.

- 16. ~~Any and all information required for tree protection as indicated in Section B of this article.~~
- 17. ~~Provide and identify adequate exterior water source. (Ord. 8-1-12)~~

**Sec. 22-24-4. Minimum Standards.**

(A) The following shall be the minimum size of plant materials at installation:

- (1) Large shade trees                    1.5” caliper
- (2) Medium shade trees                1.25” caliper
- (3) Ornamental trees                  1.25” caliper
- (4) Evergreen trees                    5’ in height
- (5) Shrubs                                18” in height
- (6) Ground cover                        1 year plants

(B) All required landscaping shall be planted according to the following standards:

- (1) All trees to be planted shall meet the *American Standard for nursery stock published by the American Nursery and Landscape Association.* ~~specifications of the American Landscape Association.~~
- (2) The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the *Virginia Nursery and Landscape Association and the Virginia Society of Landscape Designers, or Nurserymen’s Association, the Virginia Chapter of Landscape Designers, and the Virginia Chapter of the American Society of Landscape Architects,* or the Road and Bridge Specifications of the Virginia Department of Transportation.
- (3) All required landscaping shall be planted between September 15 and June 30, provided that the ground is not frozen.

(C) Wheel stops, curbing, or other barriers shall be provided to prevent damage to landscaping by vehicles.

(D) Where necessary, trees shall be welled or otherwise protected against change in grade. Such protection measures shall be sited to minimize disturbance within the drip line of trees designated for protection on the landscape plan.

(E) All pervious areas of the site shall be permanently protected from soil erosion with grass, ground cover, or mulch material. (Ord. 8-1-12)

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**Article 25. Outdoor Light Control<sup>12</sup>**  
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<sup>12</sup> Renamed by Editor from “Sec. 22-25. Outdoor Light Control Article”.

**Sec. 22-25-4. General Terms.**

- (A) Outdoor Light Fixtures shall mean outdoor artificial illuminating devices, outdoor fixtures, lamps or other devices, permanent or portable, used for illumination, direction or advertisement. Such devices shall include, but are not limited to search, spot, or flood lights for:
- (1) Buildings and structures, including canopies and overhangs
  - (2) Parking lot lighting
  - (3) Landscape lighting
  - (4) Signs
  - (5) Display and service areas
- (B) Installed shall mean the initial installation of outdoor light fixtures defined herein, following the effective date of this article, but shall not apply to those outdoor light fixtures installed prior to such date.
- (C) Shielded, Fully shall mean fixtures that are shielded in such a manner that light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below a horizontal plane running through the lowest point on the fixture where light is emitted. This means that a fully shielded fixture is one used in such a way that it allows no direct or internally reflected light to shine above the light fixture or beyond the property line. The terms 'source shield' and 'full cutoffs' shall mean fully shielded.
- (D) Footcandle *shall mean a* ~~A~~ quantitative unit of measure referring to the measurement of illumination incident at a single point. One footcandle is equal to one lumen uniformly distributed over an area of one square foot.
- (E) Full Cutoff Angle *shall mean the* ~~the~~ angle formed by a line drawn from the light source and a line perpendicular to the ground from the light source, beyond which no light is emitted. ~~Refer to example graphics. (Refer to Figure 2)~~
- (F) Initial Lumens *shall mean the* ~~The~~ lumens emitted from a lamp, as specified by the manufacturer of the lamp.
- (G) Lamp *shall mean the* ~~The~~ component of a luminaire that produces and directs light. A lamp is also commonly referred to as a bulb.
- (H) Lumen *shall mean a* ~~A~~ standard unit of measurement referring to the amount of light energy emitted by a light source, without regard to the effectiveness of its distribution.

- (I) Luminaire *shall mean* —A complete lighting unit consisting of a lamp or lamps together with the components designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply. A luminaire is also commonly referred to as a fixture.
- (J) Outdoor Luminaire *shall mean a* —A luminaire that is permanently installed outdoors including, but not limited to, devices used to illuminate any site, structure, or sign.
- (K) Photometric Plan *shall mean a* —A point-by-point plan depicting the intensity and location of lighting on the property and spillover on to adjacent properties or rights of way.

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**Sec. 22-25-6. General Requirements for All Zoning Districts.**

- ~~A.~~ (A) Public or Private Recreational Facilities: Lighting for the parking areas for these facilities shall meet the requirements identified in the following Applications section.
- ~~B.~~ (B) Outdoor Illumination of Building, Landscaping and Signs. The unshielded outdoor illumination of any building or landscaping is prohibited. Lighting fixtures used to illuminate an outdoor sign shall either be mounted on the ground sign or mounted on the top of the sign, and shall comply with shielding requirements.
- ~~C.~~ (C) All outdoor lighting fixtures shall be turned off after the close of business, unless needed for safety or security, in which case the lighting shall be reduced to the minimum level necessary.
- ~~D.~~ (D) Gasoline Station/Convenience Store Aprons and Canopies.
  - (1) The ~~Lighting~~ lighting fixture bulbs shall be recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling and light is restrained to no more than 85 degrees from vertical. ~~as shown in Figure 1.~~
  - (2) As an alternative to recessed ceiling lights, indirect lighting may be used where the light is directed upward and then reflected down from the underside of the canopy. In this case, light fixtures shall be shielded so that direct illumination is focused exclusively on the underside of the canopy and the canopy designed is such a way as to prevent light from being directly reflected beyond the property line.
  - (3) Lights shall not be mounted on the top or sides (fascia) of the canopy, and the sides of the canopy shall not be illuminated.
  - (4) The lighting for new facilities (pump islands and under canopies) shall have a minimum of 1.0 footcandle at grade, and the average horizontal illumination cannot exceed 10 footcandles at grade level, subject to a uniformity ratio (ratio of average to minimum illuminance) no greater than 4:1. The standards herein are based on the Illuminating

Engineering Society of North America (IESNA) RP-33, Lighting for Exterior Environments.

(5) *Spillover light, vertical or horizontal, from parking area luminaires onto public roads and property in residential or agricultural zoning districts shall not exceed one-half (1/2) footcandle at the property line.*

(6) *The lighting of roofs or portions thereof is prohibited.*

5- (E) All Parking Lots, Loading and Display Areas. This lighting requirement applies to multi-family, educational, institutional, public, commercial business and retail, ~~wholesale~~ wholesaling, and limited and general industrial use categories identified within the Zoning Ordinance.

a- 1) Lighting for all parking, display and loading areas shall not exceed an average horizontal illumination level of 2.5 footcandles. All lighting fixtures serving these areas shall be cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA);

b- 2) Maximum Mounting Height\*

Residential: 15 feet

Non-Residential: 20 feet

\* Height is measured from the ground surface to the bottom of the lighting fixture.

6- (F) *Spillover light, vertical or horizontal, from parking area luminaires onto public roads and property in residential or agricultural zoning districts shall not exceed one-half (1/2) footcandle at the property line.*

7- (G) *The lighting of roofs or portions thereof is prohibited.*

.....  
**Article 26. Off-Street Parking and Loading Spaces**  
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**Sec. 22-26-4. Parking space standards.**

(A) Parking Dimensional Standards

(1) Parking spaces and adjacent aisles shall conform to the dimensions listed in Table 1:  
----table omitted ----

(2) The minimum stall depth requirements for perpendicular parking spaces may be reduced by up to two feet (2'), if the parking spaces are adjacent to planting strips or other landscaping features that allow for an unobstructed overhang equivalent to the reduction.

(3) Parking areas containing thirty (30) or more spaces may designate up to twenty percent (20%) of the minimum required parking spaces as compact car spaces. Such spaces shall meet the following requirements:

- (a) All compact parking spaces shall conform to the dimensions listed in Table 1.
- (b) Compact car parking spaces shall be located in one (1) or more continuous areas and shall not be intermixed with spaces designed for full-size vehicles.
- (c) Compact car parking spaces shall be clearly designated by pavement markings and/or appropriate signage.

(4) Vehicular access roads, when not adjacent to parking spaces, shall meet the following requirements:

- (a) The minimum travelway width for two-way access roads shall be twenty-four feet (24').
- (b) One-way access roads are permitted, provided that the circulation pattern is contained within the site or sites shown on the site plan and public roadways are not incorporated as part of the circulation pattern. The minimum travelway for one-way access roads shall be twelve feet (12').

(B) Handicapped Parking

- 1. Handicapped parking spaces shall have a minimum width of eight (8) feet, with an adjacent five- (5) foot access aisle to be provided on one side of the handicapped space.
- 2. Handicapped parking spaces shall have a minimum length of 18'.
- 3. In any parking lot of more than five (5) spaces, there shall be at least two (2) designated and properly signed as a handicapped space.
- 4. In parking lots having more than five (5) spaces, at least one (1) per *twenty-five* (25) spaces *shall be handicapped spaces* in addition to the two handicapped spaces already provided in 22-26-4(B)3. ~~22-26-4(b)3.~~
- 5. Handicapped parking spaces shall be situated so as to provide direct, unobstructed access to buildings by the shortest practical routing.

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*Article 27. Regulation of Telecommunications Facilities*  
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**Sec. 22-27-2. Existing telecommunications antenna support facilities.**

Telecommunications antenna support facilities (TASFs) existing or permitted prior to the adoption of this Article shall be subject to the provisions of Article 16: *Nonconforming Uses* of this ordinance. (Ord. 9-21-11)

.....

**Sec. 22-27-6. Definitions.**

For purposes of this Article 27, the following terms shall be defined as follows:

ABANDONED: Any antenna support facility without any mounted transmitting and/or receiving antennas in continued use.

.....

ASR: The Antenna *Structure Registration Number* ~~Facility Registration Number~~ as required by the FAA and FCC.

.....

~~LEAST~~ LEAST VISUALLY OBTRUSIVE PROFILE: The design of a telecommunication antenna support facility intended to present a visual profile that is the minimum profile necessary for the facility to properly function.

.....

TELECOMMUNICATION ANTENNA SUPPORT FACILITY (hereinafter "TASF"): Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other telecommunications, and usually *consisting* ~~consistent~~ of an antenna support facility (see definition), feed lines, base station(s), and antenna(s) and antenna array(s). The following are included in the telecommunication antenna support facility: new, mitigated, replacement, and/or existing concealed and non-concealed antenna support facilities, public antenna support facilities, colocations, antenna attachments, broadcast, and wireless broadband facilities.

.....

**Sec. 22-27-9.9. Wireless broadband facility.**

(1) A *wireless broadband facility* ~~Wireless Broadband Facility~~ may be collocated in accordance with the provisions of *Secs. 22-27-9.5 and 22-27-10.2, as applicable*; ~~Sec. 22-37-13.8~~; and

(2) A *wireless broadband facility* ~~Wireless Broadband Facility~~ proposed for a new physical site shall comply with the provisions of Sec. 22-27-8. herein above.

(Ord. 9-21-11)

.....

**Sec. 22-27-10.2. Additional submittal requirements for attached antenna (concealed and non-concealed); colocations; colocation modifications; antenna replacements of different size, weight or frequency, and antenna combining.**

*Additional requirements for applications for attached antenna, both concealed and non-concealed; colocations; colocation modifications; antenna replacements of a different size, weight or frequency, and antenna combining shall include all of the following:*

(1) A written statement setting forth the reasons for the request.

- (2) A description of the proposed request, including any proposed modifications to antenna element design, type and number including manufacturer's model number of the existing and proposed antenna elements; as well as changes in the number and/or size of any feed lines, from the base of the equipment cabinet to such antenna elements.
- (3) A stamped or sealed structural analysis of the proposed antenna support facility prepared by a registered professional engineer licensed by the State of Virginia indicating the proposed and future loading capacity of the antenna support facility is compliant with EIA/TIA-222-G (as amended).
- (4) A signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards relating to interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards relating to human exposure to RF energy.
- (5) A stamped or sealed structural analysis of the existing facility prepared by a registered professional engineer licensed by the State of Virginia indicating that the existing TASF as well as all existing and proposed appurtenances meets Virginia Building Code requirements (including wind and ice loading) for the antenna support facility.  
(Ord. 9-21-11)

**Sec. 22-27-10.3. Additional submittal requirements for all freestanding telecommunication and broadcast antenna support facilities.**

*Additional requirements for applications for freestanding telecommunications and broadcast antenna support facilities shall include all of the following:*

- (1) One (1) original and two (2) copies of a survey of the property completed by a registered professional engineer, licensed in the State of Virginia showing all existing uses, facilities, and improvements.
- (2) Site development plan regulations as set forth in Article 23 of this ordinance.
- (3) Proof that a property and/or antenna support facility owner's agent has appropriate authorization to act upon the owner's behalf (if applicable). A signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards regarding interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards regarding human exposure to RF energy.
- (4) A stamped or sealed structural analysis of the proposed antenna support facility prepared by a registered professional engineer licensed by the State of Virginia indicating the proposed and

future loading capacity of the antenna support facility is compliant with EIA/TIA-222-G (as amended).

- (5) A written statement by a registered professional engineer licensed by the State of Virginia specifying the design structural failure modes of the proposed facility, if applicable.
- (6) A pre-application conference will be required for any new broadcast facility.
- (7) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.
- (8) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and “Objects Affecting Navigable Airspace,” if applicable.  
(Ord. 9-21-11)

**Sec. 22-27-10.3.A. Additional submittal requirements for non-broadcast TASFs.**

*Additional requirements for applications for non-broadcast TASFs shall include all of the following:*

- (1) Technical data included in the report shall include certification by a registered professional engineer licensed in the State of Virginia or other qualified professional, which qualifications shall be included, regarding service gaps or service expansions that are addressed by the proposed TASF, and accompanying maps and calculations demonstrating the need for the proposed TASF.
- (2) A map showing the geographic search ring.
- (3) The applicant shall provide a statement as to the potential visual and aesthetic impacts of the proposed TASF and equipment on all adjacent residential zoning districts.
- (4) Materials detailing the locations of existing TASFs to which the proposed TASF will be a handoff candidate; including latitude, longitude, and power levels of the proposed and existing antenna is required.
- (5) A radio frequency propagation plot indicating the coverage of existing TASFs, coverage prediction, and design radius, together with a certification from the applicant’s radio frequency (RF) engineer that the proposed facility’s coverage or capacity potential cannot be achieved by any higher ranked alternative such as a concealed facility, attached facility, replacement facility, colocation, or new TASF. NOTE: These documents are required to justify a facility and to determine if the proposed location is the only or best one in the designated geographic area of the proposed facility.
- (6) A stamped or sealed certification from a registered radio frequency engineer demonstrating compliance with **Section 22-27-7** (Siting ~~alternatives—~~hierarchy). If a lower ranking

alternative is proposed the certification must address why higher ranked options are not technically feasible, practical or justified given the location of the proposed telecommunications facility.

(Ord. 9-21-11)

**Sec. 22-27-10.3.B. Additional submittal requirement for broadcast antenna support facilities.**

*For applications for broadcast antenna support facilities, the technical ~~Technical~~ data included in the report shall include the purpose of the proposed facility as described in the FCC Construction Permit Application. (Ord. 9-21-11)*

.....

**Sec. 22-27-11.1. “By right” application.**

*The review of any and all “by right” applications shall be as follows:*

- (1) The zoning administrator or designee shall review the request, application, and submitted documents for compliance with all requirements of this Article. The County may, at its discretion, obtain additional technical assistance to review and assess the technical merits of the documents.
- (2) If the zoning administrator or designee determines the application and documentation meets all of the requirements of this Article, the County shall approve the application package and the applicant may proceed to request a building permit.
- (3) If the zoning administrator or designee determines the application and/or documentation fails to meet all the requirements of the Article, then the County shall provide written notification to the applicant as to the materials which need to be amended or supplied for review. The applicant shall provide to the County any requested materials for review. This process shall continue until the County has approved the application package, at which time the applicant may proceed to request a building permit.
- (4) If the zoning administrator or designee determines the application and documentation fails to meet the intent of this Article, the County may deny the request in writing.
- (5) Appeals from a decision made by the zoning administrator shall be to the Board of Zoning Appeals.

(Ord. 9-21-11)

**2015 Fluvanna County Code Update – Clerical Updates to Chapter 22 Zoning.**

**Review by Planning Commission.**

\*Note: FN = Footnote, “Code Reference” is to Virginia Code, “→” means “becomes” or “change to”.

	<b>Public Purpose:</b> Amend and Re-enact the Code to conform to enabling state and federal legislation.
	<b>Chapter 22: Zoning Clerical Updates</b>
<b>Fluvanna Code §§</b>	<b>Update</b>
Sec. 22-2.1.	The list of districts appears to be missing the Planned Unit Development District (PUD). <b>Add to list:</b>  Agricultural, General, A-1... Mobile Home Park, MHP. <i>Planned Unit Development, PUD.</i>
Sec. 22-4-6.	<b>Add FN:</b> <i>As to state law granting localities the authority to regulate off-street parking, see Code of Va., § 15.2-2279.</i>
Sec. 22-4-9.1.	<b>Reformat these definitions to reflect the formatting of other definition sections.</b>
Sec. 22-4-9.2.	This section addresses mandatory setbacks for intensive livestock uses. <b>Amend (1)</b> as follows to clarify: (1) Except as otherwise provided in this section, each intensive livestock, dairy or poultry structure shall be set back 300 feet from <i>any</i> property line.
Sec. 22-4-9.4.	Nutrient Management regulations are propagated by the Virginia Soil and Water Conservation Board. <b>Amend section</b> to reflect: After the effective date of this section, no intensive livestock, dairy or poultry facility for which the Commonwealth of Virginia requires a nutrient management plan shall commence operation until such plan has been approved by the Virginia Department of Conservation and Recreation, <del>or by the Virginia Cooperative Extension Service,</del> or by a person certified by the <i>Virginia Soil and Water Conservation Board or the Commonwealth as a nutrient management planner, in accordance with 4VAC50-85-10 et seq, “Nutrient Management Training and Certification Regulations.”</i>
Sec. 22-7-4.	Amend structure and clarify wording:  <del>(a)</del> The location of the open areas which shall comprise not less than twenty-five (25) percent of the whole... The open areas of the tract shall be delineated due to their noteworthy features and value to the continued rural character of the county including... <del>(b)</del> <i>The preliminary Master Plan shall contain the following information:</i> (a) <del>The plan shall also indicate</del> The general location of the various types of land uses, including...; (b) <del>(c)</del> <i>The areas designated for residential development...;</i>

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	<p>(c) <del>(d)</del> <i>The areas designated for commercial and/or institutional development...;</i>          (d) <del>(e)</del> <i>The street layout, with indication of which streets are to be dedicated...;</i>          (e) <del>(f)</del> <i>The pedestrian and bicycle facilities...;</i>          (f) <del>(g)</del> <i>The orientation of the preliminary master plan to the surrounding community;</i>          (g) <del>(h)</del> <i>The general location of all public and private roads shall be indicated on the plan;</i>          (h) <del>(i)</del> <i>The Adequate provisions for general sewer, storm drainage, and water supply, which shall be adequate for the full proposed development shall be shown on the plan;</i>          (i) <i>The preliminary Master Plan shall also demonstrate its compliance with the county’s Comprehensive Plan.</i></p>
<p>Sec. 22-7-5.</p>	<p>Amend structure and clarify wording. Note that current (a) <b>requires</b> (“shall...approve”) the Planning Commission to approve any changes to the preliminary master plan. Amended (a)3. <b>allows</b> the PC to approve, if appropriate.</p> <p>(a) <del>Requirements for Submittal</del> <i>Submitting the final Master Plan:</i></p> <ul style="list-style-type: none"> <li><del>a-</del> 1. <i>The applicant shall submit five Five (5) copies of the final Master Plan to the Planning Director. The final plan shall have been be prepared by a ...</i></li> <li><del>b-</del> 2. <i>The final Final Master Plan shall be consisted with the preliminary Master Plan as approved. The applicant may vary from the approved preliminary Master Plan to any degree if it does not vary the basic concept or character of the development.</i></li> <li><del>c-</del> 3. <i>And departure from the approved preliminary Master Plan must shall be approved by the Planning Commission.</i></li> </ul> <p>(b) <i>The Final Master Plan must contain Requirements:</i></p> <ul style="list-style-type: none"> <li><del>a-</del> 1. <i>All the preliminary Preliminary Master Plan Information;</i></li> <li><del>b-</del> 2. <i>The location of the existing and proposed property lines;</i></li> <li><del>c-</del> 3. <i>The plans Plans and specifications Specifications for roads, pedestrian facilities...;</i></li> <li><del>d-</del> 4. <i>Any and all proposed Homeowners Association documents for review and approval by the County Attorney approval; if any roads, open space...;</i></li> <li><del>e-</del> 5. <i>A final Final plat meeting the requirements of Chapter 19: Subdivisions of the county code;</i></li> <li><del>f-</del> 6. <i>A Site Development Plan for any commercial, institutional or multi-family development meeting the requirements of Chapter 22-23: Site Development Plans of the county code;</i></li> <li><del>g-</del> 7. <i>A performance Performance bond for improvements as provided in Chapter 19: Subdivisions of this code;</i></li> <li><del>h-</del> 8. <i>The applicant shall furnish with a Final Plan a A proposed deed of easement including restrictions safeguarding the permanent use of open areas and preventing encroachment thereupon and any deeds for any land dedicated to the</i></li> </ul>

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	<p>county as part of the Master Plan for <i>review and</i> approval by the County Attorney;  <del>After When</del> the Final Plan and deed of dedication <del>shall</del> have been approved by both the Planning Director and the County Attorney as being in conformity with this chapter and the <del>preliminary Preliminary</del> Master Plan, the Final Plan shall be...</p>
Sec. 22-7-12.	<p>This section describes Recreation requirements for master planned communities. Appears to be <b>a typo</b> in Group A:</p> <p>Group A permits bicycling... open play area (minimum ½ <del>area</del> acre).</p> <p><b>In addition</b>, options for &lt;14 residential units and 15-60 residential units. Need to include <b>exactly 14</b> residential units: ≤14 residential units.</p>
Sec. 22-9-2.	<p>This Section applies to Business, General, District B-1. Unlike most other Articles, this Article does not provide Use Regulations. Add Use Regulations for consistency.</p> <p><b>Sec. 22-9-2. Use Regulations.</b>  <i>In Business, General, District B-1, structures to be erected or land to be used shall be for one or more of the following uses, together with ordinary and necessary accessory uses, and no others.</i></p>
Sec. 22-9-3.	<p><b>Add Article name</b> for clarity:          All buildings, structures and uses in the B-1 District shall be subject to the provisions of Article 23: <i>Site Development Plans of this Code.</i></p>
Sec. 22-10-5.	<p><b>Add Article name</b> for clarity:          All buildings, structures and uses in the <del>BC</del>-B-C District shall be subject to the provisions of Article 23: <i>Site Development Plans.</i></p>
Sec. 22-11-2.	<p><b>Add Use Regulations</b> to this Article for consistency with the rest of the Zoning chapter:</p> <p><b>Sec. 22-11-2. Use Regulations.</b>  <i>In Industrial, Limited, District I-1, structures to be erected or land to be used shall be for one or more of the following uses, together with ordinary and necessary accessory uses, and no others.</i></p>
Sec. 22-12-9.	<p><b>Correct internal reference:</b>          Off-street parking shall conform with Article 26 <del>17</del> of this chapter.</p>
<b>Article 13</b>	<p>This Article covers “Mobile Home Park, District MHP”. The current and more inclusive term is “manufactured homes” as in state law and our updated floodplain ordinance.</p> <p>Amend section title “<i>Manufactured Mobile</i> Home Park, District MHP”</p>

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	Amend references in this Article to “mobile homes” to “ <i>manufactured homes</i> ”.
Sec. 22-13-6.	<b>Update to reflect current regulations:</b> (l) <del>Manufactured mobile</del> home standards. Every <del>manufactured mobile</del> home occupied as a dwelling unit in Fluvanna County shall meet the minimum standards of the <i>Virginia Manufactured Home Safety Regulations and shall have been manufactured under the authority of the National Manufactured Home Construction and Safety Standards Act</i> <del>Virginia Industrialized Building Unit and Mobile Home Safety Regulations</del> , as the same shall be in effect from time to time.
Sec. 22-13-7.	<b>Add Article name for clarity:</b> Each <del>manufactured mobile</del> home park shall be subject to the provisions of Article 23: <i>Site Development Plans</i> of this chapter.
Sec. 22-14-8.	<b>PUD District Density Regulations chart, amend title:</b> Minimum & Maximum Density Dwelling Units <del>per</del> <i>per</i> acre for Residential – Floor Area <del>Ratio</del> <i>Ratio</i> for Commercial
Sec. 22-14-8.3.	<b>Change “+15%” to “&gt;15%”</b> in table to clarify.
Sec. 22-15-4.	(2)Maintenance and Removal (a) All signs shall be constructed in compliance with the <del>International Building Code</del> <i>Uniform Statewide Building Code</i> , as adopted by the Virginia State Code. ....
Sec. 22-17-1(b).	Clarify who issues additional requirements: (b) Each application for a zoning permit shall be accompanied by a site plan which complies with the provisions of Article 23: <i>Site Development Plans</i> of this chapter. In the case of any building...which is exempt from the provisions of Article 23, a sketch plan shall be submitted. Each such sketch shall show the size and shape of the parcel of land...and by all applicable deed restrictions known to the applicant. <i>The sketch plan shall also include any</i> <del>Any</del> other information which the administrator may deem necessary for construction <del>may be required...</del>
Sec. 22-17-6.	<b>Clarify meaning of section:</b> Whenever there shall be plans in existence <i>for</i> a project in the Secondary or Primary Six Year Plan that has been approved by the Virginia Department of Transportation and the governing body for the widening of any street or highway, the administrator may require...
Sec. 22-17-9.	<b>Add FN:</b> as to state law regarding conditional rezoning, see Code of Va., § 15.2-2296 et seq.
Sec. 22-17-15.	<b>Correct reference from “mobile home” to “<i>manufactured home</i>”</b>
Sec. 22-17-6.	<b>Amend to reflect that internal reference in (3)(d) was repealed:</b>

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	<p>(d) Any buildings or structures over <i>twelve</i> (12) feet in height, <del>other than public utility structures subject to the provisions of Section 22-17-14 of this chapter,</del> shall be located a minimum of 300 feet distant from adjoining property lines or edge of road rights-of-way;</p> <p><b>Omit commas to clarify:</b></p> <p>(1) In addition to obtaining zoning approval from Fluvanna County, the proposed power plant also will obtain, <del>and maintain</del> valid permits as required by all other regulatory bodies of the state and federal governments.</p>
Sec. 22-17-18.	<p><b>ADD THIS SECTION TO THE TITLE PAGE.</b>  <i>Sec. 22-17-18. Necessary subordinate uses.</i></p>
Sec. 22-18-1.	<b>Add FN:</b> As to state law authorizing the formation of the county’s board of zoning appeals, see Code of Va., § 15.2-2308.
Sec. 22-18-2.	<b>Add FN:</b> As to state law regarding powers of the board of zoning appeals see, Code of Va., § 15.2-2309.
Sec. 22-18-4.	<b>Add FN:</b> as to state law regarding appeals to the board of zoning appeals, see Code of Va., § 15.2-2311.
Sec. 22-18-6.	<b>Add FN:</b> as to state law regarding timing of public hearing and powers of the board of zoning appeals, see Code of Va., § 15.2-2312.
Sec. 22-21-3(c)	<b>Add FN to (c):</b> as to state law provisions regarding district boundary lines, see Code of Va., § 15.2-2309(4).
Art. 22	<b>Omit repealed code reference:</b> CENTRAL SEWERAGE SYSTEM: ...by the board of supervisors pursuant to <del>Title 15.1, Chapter 9, Article 9 of the Code of Virginia in accordance with Virginia Waste Management Act.</del>
	CENTRAL WATER SUPPLY: ...by the board of supervisors pursuant to <del>Title 15.1, Chapter 9, Article 7 of the Code of Virginia in accordance with the Virginia State Water Control Board regulations.</del>
	<b>Add Code reference:</b> INOPERABLE MOTOR VEHICLE:... nor a valid inspection detail, <i>as provided in the Code of Virginia, Section 15.2-904.</i>
	<b>Add Article name for clarity:</b> PARKING BAY: ...as specified in Article <del>22</del> <b>26: Off-Street Parking and Loading Spaces</b> of this chapter.
	<b>Clarify definition:</b> WOODSTORAGE, TEMPORARY: A lot utilized for the temporary (30, 60, or 90 days) storage/loading of...
Sec. 22-23-6.	<p><b>Sec. 22-23-6. Site plan content</b> needs to be clarified and made consistent by changing formatting and adding numbering:</p> <p>1. The site plan, or any portion thereof, involving engineering, urban planning, landscape architecture, architecture, or land surveying, shall be prepared by a qualified person.</p>

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	<p>2. Final site plans submitted for approval shall be certified by an architect...</p> <p>3. <del>The</del> <i>All</i> minor major site plans shall include:</p> <ul style="list-style-type: none"><li>A. The proposed title...</li><li>B. A signature pane...</li><li>C. A North arrow...</li><li>D. A vicinity map...</li><li>E. <del>The existing</del> <i>Existing</i> zoning and zoning district boundaries on the property in the development...; <del>all</del> <i>All</i> special zoning requirements...; <del>the proposed</del> <i>Proposed</i> changes in zoning, if any.</li><li>F. ...</li><li>G. ...</li><li>H. <del>The features</del> <i>Features</i> ...</li><li>I. <del>The building</del> <i>Building</i> setback lines..and type of dwelling units where applicable; <del>and preliminary</del> <i>Preliminary</i> plans and elevations for...</li><li>J. <del>The type</del> <i>Type</i>, location, height...</li><li>K. <del>The site</del> <i>Site</i> coverage, showing percentage...</li><li>L. <del>All existing</del> <i>Existing</i> and proposed topography...</li><li>M. ...</li><li>N. ...</li><li>O. The location of all existing and porposed off-street parking and parking bays, loading spaces, and pedestrian walkways, indicating types of surfacing, dimensions of stalls, width of aisles and a specific schedule showing the number of parking spaces. See Article 22-26 Off-Street <del>street</del> <i>Street</i> Parking and Loading Spaces <del>Requirements</del> of this Ordinance. <i>To the greatest extent possible, parking areas shall not be located between the adjacent public right-of-way and the principal parking structure on the site unless topographic features or vegetation provide effective screening. Cul-de-sacs may not be construed or employed as a parking area.</i></li><li>P. ...</li><li>Q. ...</li><li>R. ...See Article 22-15 <i>Sign Regulations</i> <del>Signs</del> of this Ordinance.</li><li>S. All paving...surfaces, <i>which</i> shall be of a design and quality ... as required by Article 22-26 Off-Street Parking and Loading Spaces.</li><li>T. <del>The limit</del> <i>Limit</i> of the one-hundred-year floodplain, as defined in Section <del>22-23-14(a)(5)</del> <i>22-17-8A</i> of this Ordinance.</li></ul>
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	<p><del>U. The location</del> Location of any...</p> <p>V. ...</p> <p>W. ...</p> <p>X. <del>Cul-de-sacs may not be construed or employed as a parking area. All suitable</del> Suitable easements for future public water and sewer facilities necessary to serve the property shall be indicated on the plan.</p> <p>Y. All new electrical...and other utility lines on the site, <i>which</i> shall be installed underground.</p> <p>Z. <del>To the greatest extent possible, parking areas shall not be located between the adjacent public right-of-way and the principal structure on the site unless topographic features or vegetation provide effective screening.</del></p> <p><del>1.4.</del> In the B-1 and B-C zoning districts...</p> <p><del>AA.</del> 5. Site planning shall consider the future development...</p> <p><del>BB.</del> 6. In the B-1, B-C, I-1, and I-2 zoning districts, sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private.</p> <p>A. A variation to the sidewalk regulations may be granted by the Planning Commission for projects where:</p> <p style="padding-left: 20px;">(a) The Virginia Department of Transportation...</p> <p style="padding-left: 20px;">(b) ...</p> <p style="padding-left: 20px;">(c) The application of the <del>before mentioned</del> <i>aforementioned</i> requirements...</p> <p>B. The applicant <i>for a variation to the sidewalk regulations</i> shall file a written request... and how the <del>before mentioned</del> <i>aforementioned</i> circumstances...</p> <p>C. The Planning Commission shall act...The Planning Commission may grant the variation if <del>he</del> <i>it</i> determines that one or more...</p> <p>D. The denial of a variation, or the approval...</p>
<p>Sec. 22-24-3.</p>	<p><b>Standardize listing of required items for clarity:</b></p> <p><del>A.</del> The Landscape <del>Plan</del> <i>plan</i> shall include the following elements:</p> <p><del>1.</del> (A) <del>The existing</del> Existing and proposed contours...;-</p> <p><del>2.</del> (B) <del>All Property</del> <i>property</i> boundary lines;-</p> <p><del>3.</del> (C) <del>The limits</del> Limits of grading and clearing;-</p> <p><del>4.</del> (D) <del>The tree</del> Tree protection zone(s), as applicable <i>and any and all information required for tree protection as indicated in Sections 22-24-8.1—3 of this Article</i>;-</p> <p><del>5.</del> (E) All proposed improvements;-</p> <p><del>6.</del> (F) <del>The existing</del> Existing and proposed...;-</p>

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	<p><del>7.-(G) All rights-of-way</del> <del>Rights-of-way</del> and easements;→  <del>8.-(H) An adequate, clearly identified, exterior water source; and</del>          (I) All planting details including:              1. The botanical <del>Botanical</del> and common name, size, spacing, and location of all trees, shrubs, and ground cover, and the location and extent of planting beds in which they are to be planted, if any;→              <del>9.</del>2. All plants <del>Plants</del> shall be labeled...;              <del>10.</del> 3. A planting symbol <i>shall be provided</i> to illustrate the...;              <del>11.</del> 4. A planting list or matrix <i>shall be provided</i> showing...;              <del>12.</del> 5. General details <i>shall be provided</i> illustrating the...;              <del>13.</del> 6. Special details <i>shall be provided</i> illustrating the...;              <del>14.</del> 7. General notes <i>shall be provided</i> specifying the...;              <del>15.</del> Any and all information required for tree protection as indicated in Section B of this article.              <del>16.</del> Provide and identify adequate exterior water source.</p>
<p>Sec. 22-24-4.</p>	<p>(A) <del>B.</del> All required landscaping shall be planted according to the following standards:              (1) <del>1.</del> All trees to be planted shall meet the specifications of the American Landscape Association. <i>American Standard for nursery stock published by the American Nursery and Landscape Association.</i>              (2) <del>2.</del>The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nursery and Landscape Nurserymen’s Association, the Virginia Chapter and the Virginia Society of Landscape Designers, and the Virginia Chapter of the American Society of Landscape Architects, or the Road and Bridge Specifications of the Virginia Department of Transportation.</p>
<p>Sec. 22-26-4.</p>	<p><b>Amend to clarify:</b>          (B)<del>B.</del> Handicapped Parking              (1)<del>1.</del> ...              (4) <del>4.</del> In parking lots having more than five (5) spaces, at least one (1) per <i>twenty-five</i> (25) spaces <i>shall be handicapped spaces</i> in addition to the two handicapped spaces already provided in <del>22-26-4(b)3</del> 22-26-4(B)3.</p>
<p>Sec. 22-27-2.</p>	<p><b>Add Article name for clarity:</b>          Telecommunications antenna support facilities (TASFs) existing or permitted prior to the adoption of this Article shall be subject to the provisions of Article 16: <i>Nonconforming Uses</i> of this ordinance.</p>
<p>Sec. 22-27-6.</p>	<p><b>Correct definitions:</b>          ASR: The Antenna <i>Structure Registration</i> <del>Facility Registration</del> Number as required by the FAA and FCC.</p>

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**Review by Planning Commission.**

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	<p><del>LEASE</del> <i>LEAST</i> VISUALLY OBTRUSIVE PROFILE: ...</p> <p>TELECOMMUNICATION ANTENNA SUPPORT FACILITY (hereinafter “TASF”): Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other telecommunications, and usually <del>consistent</del> <i>consisting</i> of an antenna support facility...</p>
Sec. 22-27-9.9.	<p><b>Update sections:</b></p> <p>(1) A <i>wireless broadband facility</i> <del>Wireless Broadband Facility</del> may be collocated in accordance with the provisions of <del>Sec. 22-37-13.8</del> <i>Secs. 22-27-9.5 and 22-27-10.2., as applicable;</i> and</p>
Sec. 22-27-10.2	<p><b>Add introductory clause for clarity:</b></p> <p><i>Additional requirements for applications for attached antenna, both concealed and non-concealed; colocations; colocation modifications; antenna replacements of a different size, weight or frequency, and antenna combining shall include all of the following:</i></p> <p>(1) A written statement...</p>
Sec. 22-27-10.3	<p><b>Add introductory clause for clarity:</b></p> <p><i>Additional requirements for applications for freestanding telecommunication and broad cast antenna support facilities shall include all of the following:</i></p> <p>(1) One (1) original and two (2) copies of a survey...</p>
Sec. 22-27-10.3.A.	<p><b>Add introductory clause for clarity:</b></p> <p><i>Additional requirements for applications for non-broadcast TASFs shall include all of the following:</i></p> <p>(1) Technical data included in the report shall include...</p> <p>(6) A stamped or sealed certification from a registered radio frequency engineer demonstrating compliance with <b>Section 22-27-7</b> (Siting <del>alternatives</del> hierarchy)...</p>
Sec. 22-27-10.3.B.	<p><b>Add introductory clause for clarity:</b></p> <p><i>For applications for broadcast antenna support facilities, the technical</i> <del>Technical</del> <i>data included in the report shall include...</i></p>
Sec. 22-27-11.1.	<p><b>Add introductory clause for clarity:</b></p> <p><i>The review of a “by right” application shall be as follows:</i></p> <p>(1) The zoning administrator or designee...</p>

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	<b>Public Purpose:</b> Amend and Re-enact the Code to conform to enabling state and federal legislation.	
	<b><u>Chapter 22: Zoning</u></b> <b>Substantive Amendments</b>	
<b>Fluvanna Code §§</b>	<b>Mandatory Update</b>	<b>Discretionary Update</b>
22-1-2.	Section 15.2-2283 has undergone a few amendments, <b>update:</b>  ...This chapter has been designed (1) to provide for adequate light, air, convenience of access, and safety from fire, flood, <i>impounding structure failure, crime</i> and other dangers; (2) <del>to accommodate traffic to reduce or prevent congestion in the public streets</del> (3) to facilitate... (6) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available...fire, flood, <i>impounding structure failure, panic</i> or other dangers... and (9) to promote <i>the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the county is situated.</i>	
Sec. 22-4-9.1.	Update definitions of livestock to reflect Virginia Code §§ 3.2-5400, 3.2-303, 15.2-4302, 15.2-4402 etc. and include goats and furbearing animals:  (1) Livestock includes all domestic or domesticated <i>animals, including but not limited to: cattle, sheep, hogs, goats, horses, poultry, and furbearing animals</i> <del>bovine animals, such as cattle; equine animals such as horses; ovine animals, such as sheep; caprine or hircine animals such as goats; and porcine animals, such as hogs.</del> (2) Intensive livestock, dairy or poultry facility... Livestock: 300 slaughter of feeder cattle Livestock: 750 swine... Livestock: 3,000 sheep, <i>lamb, or goats</i> <del>or lambs</del> ... Poultry: 30,000 laying hens or broilers <i>Livestock: 16,500 Furbearing animals such as rabbits, chinchilla</i>	<b>Consider:</b> adding agritourism definitions and regulations – wineries/vineyards, breweries, etc..
Sec. 22-13-2.	<b>The floodplain ordinance contains specific requirements for manufactured homes, so add reference to Use Regulations:</b>	

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	<p>In <i>Manufactured Mobile-Home Park, District MHP</i>, only one mobile home and its accessory uses and structures shall be permitted on each minimum lot area. Structures to be erected or land to be used shall be for some combination of the following uses.</p> <p><i>Manufactured homes used pursuant to this section, shall comply with the Flood Protection subsection of this Chapter found in Section 22-17-8A et seq.</i></p>	
<p><b>Article 15</b></p>	<p><b>Sign Regulations must be amended to Va. Code §§ 18.2-223, 18.2-224 for “going out of business sales”.</b> <b>Other amendments will be addressed separately.</b> Recommendations follow:</p>	
<p>Sec. 22-15-4.1</p>	<p><b>Add Section to reflect Va. Code §§ 18.2-223, 18.2-224:</b></p> <p><i>Sec. 22-15-4.1 “Going out of business” and “Special” sales.<sup>1</sup></i></p> <p><i>(a) All persons must obtain a permit from the county in order to advertise or conduct a sale for the purpose of discontinuing a retail business, or to modify the word “sale” in any advertisement with the words “going out of business” or any other words which tend to insinuate that the retail business is to be discontinued and the merchandise liquidated.</i></p> <p><i>(b) The applicant shall submit an application for a permit to the county administrator, or his designee, which shall include the following:</i></p> <ol style="list-style-type: none"> <li><i>(1) A statement of the purpose of the sale (i.e. liquidation of assets, terminating retail business);</i></li> <li><i>(2) An inventory including the kind and quantity of all goods to be offered for sale during the sale;</i></li> <li><i>(3) A copy of any proposed advertisements which may be posted or published in connection with the special sale; and</i></li> <li><i>(4) A fee of \$65 for the processing of the permit, which shall not be refunded.</i></li> </ol> <p><i>(c) Upon receipt of the complete application and fee, the county administrator or his designee, shall issue a special sale permit which shall be valid for a maximum of sixty (60) days. An extension of the sale or additional sale shall require an additional permit application and fee as described above. A maximum of one permit beyond the initial sixty (60) day permit may be granted solely for the purpose of liquidating only those goods contained in the initial inventory list which remain unsold.</i></p> <p><i>(d) The permittee shall prominently display the permit number and effective dates of the special sale on any and all advertisements for such sale. The permittee may not advertise along with its special sale any goods not listed in the inventory provided to the county in its application.</i></p> <p><i>(e) The permittee may not commingle or add to the special sale any goods not listed in the inventory list provided to the county. Upon proof that the permittee has commingled or added goods not listed in the inventory list to the special sale, the county may revoke the special sale permit.</i></p>	

<sup>1</sup> For state law requiring the county to oversee and permit such sales, see Code of Va., §§ 18.2-223, 18.2-224.

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	<p>(f) <i>The county administrator’s designee shall inspect the advertisement and conducting of the special sale to insure it is being advertised and conducted in conformity with the permit.</i></p> <p>(g) <i>Advertising or conducting a special sale without a permit, as required by this section, shall be punishable as a Class 1 misdemeanor.</i></p>	
Sec. 22-16-8.	<p>A (a) Where in any zone, a conforming structure devoted to a non-conforming activity or a nonconforming structure is destroyed or damaged in any manner, whether wholly or partially, either may be repaired or restored provided such repair or restoration is started within twelve months from the date of damage or partial destruction. Such restoration shall not exceed 200% of its size in square footage when destroyed. Any such expansion exceeding 100% of the original structure shall conform with the yard requirements of this ordinance. <i>Any such repair or restoration must be carried out in compliance with the Uniform Statewide Building Code, Fluvanna County flood plain regulations, as required in the Code of Virginia § 15.2-2307.</i></p> <p><del>B. Reserved</del> (b) <i>If a nonconforming structure is in an area under a federal disaster declaration and the structure has been damaged or destroyed as a direct result of the conditions that gave rise to the federal disaster declaration, then it may be repaired or restored for an additional two years after the time permitted in subsection (a) above.</i></p> <p><del>C.</del> (c) Any mobile/<i>manufactured</i> home which was lawfully in existence in the county ...</p> <p><del>a.</del> 1. The replacement mobile/<i>manufactured</i> home...</p> <p><del>b.</del> 2. The replacement mobile/<i>manufactured</i> home...</p> <p><del>c.</del> 3. The replacement mobile/<i>manufactured</i> home shall...the replacement mobile/<i>manufactured</i> home shall be... as the mobile/<i>manufactured</i> home being replaced;</p> <p><del>d.</del> 4. The mobile/<i>manufactured</i> home being replaced...no later than <i>ninety (90)</i> days after...;</p> <p><del>e.</del> 5. There shall be...such mobile/<i>manufactured</i> homes are being replaced-;</p> <p><del>f.</del> 6. The replacement mobile/<i>manufactured</i> home shall be... <i>ninety (90)</i> days after removal of the mobile/<i>manufactured</i> home to be replaced.</p>	
	(b)	
<b>Article 18</b>	Extensive amendments were made to the authorizing legislation regarding the BZA and granting variances in 2015. Significant amendments must be made to the Fluvanna Code as follow:	<b>Use “board” or “board of zoning appeals” for consistency.</b>
Sec. 22-18-1.	<p><b>Add resident provision, in accordance with § 15.2-2308:</b></p> <p>(a) A board consisting of five (5) members shall be appointed by the Circuit Court of Fluvanna County. <i>Members of the board shall be residents of Fluvanna County.</i> Members of the board may receive such compensation as may be authorized by the governing body. Members shall be removable for cause by the appointing court after hearing held after at least fifteen (15) days’ notice...</p>	
<b>Sec. 22-18-</b>	<b>Add new subsection to reflect new 2015 statute.</b>	

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<p><b>1.1.</b></p>	<p><b>Sec. 22-18-1.1. Ex parte communications and proceedings.<sup>2</sup></b></p> <p>(a) <i>The non-legal staff of the governing body may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. The applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. If any ex parte discussion of facts or law does occur, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication and the identity of the individuals involved in the communication. For the purposes of this section, regardless of whether all parties participate, ex parte communications shall not include (i) discussions as part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner or his agent or attorney are all invited.</i></p> <p>(b) <i>Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the board, shall be made available without cost to such applicant, appellant or other person aggrieved under Virginia Code Section 15.2-2314, as soon as practicable thereafter, but no more than three business days after providing such materials to a member of the board. If the applicant, appellant or other person aggrieved under Virginia Code Section 15.2-2314 requests additional documents or materials be provided by the locality other than those materials provided to the board, such request shall be made in accordance with FOIA requirements in Virginia Code Section 2.2-3704. Any such materials furnished to a member of the board shall also be made available for public inspection as required by Virginia Code Section 2.2-3707(F).</i></p> <p>(c) <i>For the purposes of this section, “non-legal staff of the governing body” means any staff who is not in the office of the county attorney, or for the board, or who is appointed by special law. Nothing in this section shall preclude the board from having ex parte communications with any attorney or staff or any attorney where such communication is protected by attorney-client privilege or other similar privilege or protection of confidentiality.</i></p> <p>(d) <i>This section shall not apply to cases where an application for a special exception has been filed pursuant to this chapter.</i></p>	
<p>Sec. 22-18-2.</p>	<p><b>Amend text</b> in accordance with Code of Va., § 15.2-2309.</p> <p>(a) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this ordinance or of any ordinance</p>	

<sup>2</sup> As to state law provisions regarding board of zoning appeals ex parte communications and proceedings, see Code of Va., § 15.2-2308.1.

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	<p>adopted pursuant thereto.</p> <p>(1) <i>The decision on such appeal shall be based on the board’s judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct.</i></p> <p>(2) <i>At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden to rebut such presumption of correctness by a preponderance of the evidence.</i></p> <p>(3) <i>The board shall consider any applicable ordinances, laws, and regulations in making its decision. For the purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer.</i></p> <p>(4) <i>Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.</i></p> <p>(b) <del>To authorize</del> <i>Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases such a variance as defined by Virginia Code Section 15.2-2201 from the terms of the ordinance as will not be contrary to the public interest, when owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows: the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section, as follows:</i></p> <p>1. <del>When a property owner can show that his</del> <i>Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonable restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and</i></p> <p><i>(i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience with the intended spirit and purpose of the ordinance.</i></p>	
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	<p><i>(ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;</i></p> <p><i>(iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;</i></p> <p><i>(iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and</i></p> <p><i>(v) the relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance at the time of the filing of the variance application.</i></p> <p><del>2. No such variance shall be authorized by the board unless it finds: (a) that the strict application of the ordinance would produce undue hardship; (b) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (c) that the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.</del></p> <p><del>—3. 2. No such variance shall be authorized considered except after notice and hearing as recorded..</del></p> <p><del>4. No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.</del></p> <p><del>—5. 3. In authorizing granting a variance, the board may impose...</del></p> <p>....</p> <p><i>(e) No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.</i></p>	
<p>Sec. 22-18-4.</p>	<p><b>Amend to comply with amended statute</b> Code of Va., § 15.2-2311.</p> <p><i>(b) An appeal to the board may be taken by any person aggrieved or by an officer, department, board or bureau of the county affected by <del>such</del> any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to this chapter.</i></p> <p><i>1. Any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to</i></p>	

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	<p><i>appeal the notice of a zoning violation or a written order within thirty (30) days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given. A written notice of a zoning violation or a written order of the zoning administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this section.</i></p> <p>2. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. <del>Pursuant to Section 15.2-2311 of the Code of Virginia, the zoning administrator shall attach to any written notice of a zoning violation or any written order a statement informing the recipient that he may have a right to an appeal within thirty days, and that the zoning administrator's decision shall become final and unappealable if not filed within thirty days.</del></p> <p>3. <del>Upon the filing of the appeal, The</del> the zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken.</p> <p>4. <i>A decision by the board on appeal shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided notice of the zoning violation or written order of the zoning administrator. The owner's actual notice of such notice of zoning violation or written order or active participation in the appeal hearing shall waive the owner's right to challenge the validity of the board's decision due to failure of the owner to receive the notice of zoning violation or written order.</i></p> <p>5. An appeal shall stay all proceedings in furtherance...</p> <p>6. In no event shall a written order, requirement...The sixty-day limitation period shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical or other nondiscretionary errors.</p> <p><i>(c) In any appeal taken pursuant to this section, if the board's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.</i></p>	
<p>Sec. 22-18-5.</p>	<p>(a) Appeals and applications for variance requiring an advertised public hearing shall be accompanied by a filing fee as determined by a fee schedule adopted by resolution of the governing body. <i>The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs, as provided in Section 15.2-2311(A) of the Code of Virginia. (Ord. 9-21-05).</i></p>	

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	<p>(b) <i>All other procedural requirements of Section 15.2-2312 of the Code of Virginia shall be observed by the board of zoning appeals. Appeals and applications for variance requiring an advertised public hearing shall be accompanied by a filing fee as determined by a fee schedule adopted by resolution of the governing body. (Ord. 9-21-05)</i></p> <p>(c) <i>For the conduct of any hearing, a quorum shall not be less than three members of the board and the board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved, and the staff of the local governing body, pursuant to Section 15.2-2308 of the Code of Virginia.</i></p>	
<p>Sec. 22-18-7.</p>	<p>(d) <del>If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.</del></p>	
<p><b>Sec. 22-18-7.1</b></p>	<p><b>Add new subsection to reflect presumptions and burdens in Circuit Court review of BZA appeals:</b></p> <p><b>Sec. 22-18-7.1. Presumptions and burdens of proof.</b></p> <p>(a) <i>In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision, or any modification of zoning requirements, the findings and conclusions of the board of zoning appeals on questions of fact shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision. The court shall hear any arguments on questions of law de novo.</i></p> <p>(b) <i>In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted an application for a variance, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut the presumption by proving a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision.</i></p> <p>(c) <i>In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted application for a special exception, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that the board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board (i) was plainly wrong, (ii) was in</i></p>	

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	<p><i>violation of the purpose and intent of the zoning ordinance, and (iii) is not fairly debatable.</i></p> <p><i>(d) In the case of an appeal from the board of zoning appeals to the circuit court of a decision of the board, any party may introduce evidence in the proceedings in the court in accordance with the Rules of Evidence of the Supreme Court of Virginia.</i></p>	
Art. 22	Article 22 Definitions	
	<p><b>This should only be a single unit for <math>\leq 8</math> residents + 1+ staff</b></p> <p>ASSISTED LIVING FACILITY: ... Such facility shall be deemed a single unit for the purpose of calculating density <i>when and as required by the Code of Virginia Section 15.2-2291.</i></p>	<p><b>Consider</b> revisions of “automobile graveyard,” “contractor’s storage yard,” “junk,” “junkyard,” “lumberyard” and “salvage/scrap yard” to make more broadly applicable.</p>
	<p>Fluvanna’s definitions of DAYCARE CENTER and FAMILY DAYCARE HOME are outdated. This area is highly regulated, so Fluvanna’s definitions should reflect state definitions as follows:</p> <p><del>DAYCARE CENTER: See CHILD DAY CENTER, CHILD DAY PROGRAM, FAMILY DAY HOME. A facility operated for the purpose of providing care, protection and guidance to ten (10) or more individuals during only part of a 24-hour day. This term includes nursery schools, preschools, daycare centers, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.</del></p> <p><i>CHILD DAY CENTER: A child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care of (ii) 13 or more children at any location. See also CHILD DAY PROGRAM, FAMILY DAY HOME.</i></p> <p><i>CHILD DAY PROGRAM: A regularly operating service arrangement for children where, during the absence of apparent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period. See also CHILD DAY CENTER, FAMILY DAY HOME.</i></p> <p><del>FAMILY DAYCARE HOME: See CHILD DAY CENTER, CHILD DAY PROGRAM, FAMILY DAY HOME. A single-family dwelling in which more than five (5) but less than thirteen (13) individuals are received for care, protection, and guidance during only part of twenty-four (24) hour day. Individuals related by blood, legal adoption, or marriage to the person who maintains the home shall not be counted towards this total. The care of five (5) or fewer individuals for portions of a day shall be considered as a home occupation.</del></p> <p><i>FAMILY DAY HOME: A child day program offered in the residence of the provider or the home of any of the</i></p>	

**2015 Fluvanna County Code Update – Substantive Updates to Chapter 22 Zoning.  
Review by Planning Commission.**

	<p><i>children in care for one (1) through twelve (12) children under the age of thirteen, exclusive of the provider’s own children and any children who reside in the home, when at least one (1) child receives care for compensation. Family day homes serving six (6) through twelve (12) children, exclusive of the provider’s own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four (4) children under the age of two, including the provider’s own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all grandchildren of the provider shall not be required to be licensed. See also CHILD DAY CENTER, CHILD DAY PROGRAM.</i></p>	
	<p>Update MEDIA, ADULT to reflect DVD, Blu-Ray:</p> <p>MEDIA, ADULT: Magazines, books, videotapes, movies, <i>DVDs or Blu-Ray</i>, CD-ROMS or other devices...</p>	
	<p>Update NURSING HOME to reflect Va. Code § 32.1-123.</p> <p>NURSING HOME: Any place or institution, <del>other than a hospital, for the aged, infirm, senile, chronically ill, or convalescent established to render domiciliary care, custodial care, treatment or lodging to three (3) or more nonrelated persons.</del> <i>or facility, or any identifiable component of any facility, other than a hospital, licensed pursuant to the Code of Virginia, Section 32.1-123, in which the primary function is the provision, on a continuing basis, of nursing and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including, but not limited to, facilities known as convalescent homes, skilled nursing facilities, skilled care facilities, intermediate care facilities, extended care facilities, and nursing or nursing care facilities.</i></p>	
	<p><b>UTILITIES: add “information” to reflect internet, consistent with Va. Code:</b></p> <p>UTILITY, MAJOR: Facilities for the ... including, but not limited to, transmission lines, production plants, electrical substations, pumping stations, treatment facilities, and <i>information and</i> communication facilities.</p> <p>UTILITY, MINOR: Facilities for... meters, and <i>information and</i> communication lines.</p>	
	<p>VARIANCE: A variance is a <del>relaxation of the terms</del> <i>reasonable deviation from the provisions of the zoning ordinance regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided where such variance will</i> is not be contrary to the <i>intended spirit and purpose of the ordinance, and would result in substantial justice being done. It shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning.</i></p>	

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	<p><del>public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure of size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by the variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or adjoining zoning districts.</del></p>	
<p>Sec. 22-23-7.</p>	<p><b>Update:</b>          B. The pavement of vehicular travel lanes, driveways, or alleys <i>shall be</i> designed to permit vehicular travel...          D. Safe and convenient pedestrian and bicycle access to, from, and within the site shall be provided.              (1) In the B-1, B-C, I-1, and I-2 zoning districts... per Section <del>22-23-6(BB)</del> 22-23-6(6).          G. All drainage structures and facilities shall be adequate to provide efficient and complete drainage of surface waters from the site into adequate channels. They shall comply with the standards and applicable provisions of the Virginia Erosion and <del>Sedimentation</del> <i>Sediment Control Handbook of the Virginia Department of Environmental Quality, the Drainage Manual of the Virginia Department of Transportation, and the regulations of the Virginia Department of Environmental Quality.</i>          H. All public water supply and sewerage systems shall comply with the provisions hereof, <i>and obtain with</i> all applicable approvals <i>and permits of</i> from Fluvanna County and the <i>relevant Virginia Boards and Departments.</i> <del>Department of Health.</del>          I. Provisions <i>shall be made</i> for the adequate disposition of surface water in accordance with design criteria and...          J. Provisions and schedule <i>shall be made</i> for approval of adequate control of erosion and sedimentation, in accordance with the Fluvanna County Erosion and Sedimentation Control program, <i>Chapter 6 of this Code.</i></p>	
<p>Sec. 22-25-4.</p>	<p><b>*There is no Figure 2. Amend to clarify:</b>  <del>(E)E.</del> Full Cutoff Angle <i>shall mean</i> <del>The</del> <i>the</i> angle formed by a line drawn from the light source and a line perpendicular to the ground from the light source, beyond which no light is emitted. <del>Refer to example graphics. (Refer to Figure 2)*</del></p>	
<p>Sec. 22-25-6.</p>	<p><b>*There is no Figure 1. Amend to clarify and standardize form:</b>  <del>(D)D.</del> Gasoline Station/Convenience Store Aprons and Canopies.              (1).<del>1.</del> <del>The lighting</del> <i>Lighting</i> fixture bulbs shall be recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling and light is restrained to no more than 85 degrees from vertical. <del>as shown in Figure 1.*</del>              (2) <del>2.</del> ...</p>	

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	<p><del>(3) 3- ....</del> <del>(4) 4....</del> <del>(5) Spillover light, vertical or horizontal, from parking area luminaires onto public roads and property in residential...</del> <del>(6) The lighting of roofs or portions thereof is prohibited.</del></p> <p><del>5- (E) All Parking Lots, Loading and Display Areas. This lighting requirement applies to multi-family, educational, institutional, public, commercial business and retail, wholesaling, and limited and general industrial use categories identified within the Zoning Ordinance.</del> <del>(1)a- Lighting for all parking, display and loading areas...</del> <del>(2)b- Maximum ...</del></p> <p><del>6- (F) Spillover light, vertical or horizontal, from parking area luminaires onto public roads and property in residential...</del> <del>7- (G) The lighting of roofs or portions thereof is prohibited.</del></p>	
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*The Fluvanna County Planning Commission resolves to propose an amendment and reenactment of the Fluvanna County subdivision ordinance entitled "AN ORDINANCE TO AMEND AND REENACT CHAPTER 19, ARTICLES 1, 3, 6, 7, AND 8 OF THE FLUVANNA COUNTY CODE BY CERTAIN AMENDMENTS TO SECTIONS AND SUBSECTIONS 19-1-3, 19-3-4, 19-3-5, 19-3-6, 19-3-6.3, 19-6-3, 19-7-6, 19-8-1, 19-8-4, 19-8-5, AND 19-8-7. THEREOF, AMENDING AND REENACTING THE FLUVANNA COUNTY SUBDIVISION ORDINANCE TO CONFORM TO THE CURRENT ENABLING LEGISLATION, AS AMENDED."*

*The public purpose for such amendment is to conform the subdivision ordinance to the current enabling legislation, as amended.*

BE IT ORDAINED BY THE PLANNING COMMISSION OF FLUVANNA COUNTY, VIRGINIA, that the Fluvanna County Code be, and it is hereby, amended and reenacted as follows:

**Chapter 19  
SUBDIVISIONS**

*Article 1. General Provisions*

.....

**Sec. 19-1-3. Plat required.<sup>1</sup>**

No person shall subdivide land without making and recording a plat of such subdivision and fully complying with the provisions of this chapter.

- (a) No such plat shall be recorded unless it is in compliance with this ordinance and has been approved by the Subdivision Agent appointed by the Fluvanna County Board of Supervisors as provided in this chapter.
- (b) No person shall sell or convey any lot or part of a subdivision unless the plat of the subdivision has been approved and recorded.
- (c) Any person violating the foregoing provisions of this section shall be subject to a fine of not more than \$500 for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies provided in this chapter.
- (d) No clerk of any court shall file or record a plat of a subdivision required by this chapter to be recorded until such plat has been approved as required by this chapter.

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<sup>1</sup> For similar state law provision, see Code of Va., § 15.2-2254.

- (e) No permit or other approval shall be issued by any official of the County for any improvement relating to any lot or parcel of land subdivided or transferred or sold in violation of this chapter until such violation shall have been abated.

.....

**Article 3. Process**

.....

**Sec. 19-3-4. Preliminary plat.<sup>2</sup>**

For any minor or major subdivision, after receiving the Subdivision Agent's comments on a sketch plan, the subdivider shall submit a preliminary plat that satisfies the requirements of Article 4 of this chapter to the Subdivision Agent.

- (a) For every minor or major subdivision, the subdivider shall submit, to the Subdivision Agent, copies of a preliminary plat in a number sufficient to allow review by all appropriate agencies as applicable and as determined by the Subdivision Agent. Within ten days the Agent shall review the preliminary plat application for completeness, and if it is incomplete, so notify the subdivider, specifying instructions for its completion. No preliminary plat shall be deemed to be officially submitted for approval unless and until the Subdivision Agent finds it to be complete. Upon his determination that such preliminary plat application is complete, the Subdivision Agent shall retain copies for his review, forward copies to all agencies whose comments are necessary for consideration of the plat.
- (b) For any minor subdivision, the Subdivision Agent shall approve or disapprove a complete preliminary plat within thirty days of its submission. In the case of disapproval, the Subdivision Agent shall inform the subdivider in writing of the reasons for disapproval and the changes required to obtain approval.
- (c) For any major subdivision, the Subdivision Agent shall review the preliminary plat and approve or disapprove the preliminary plat within forty-five days of its submission. In the case of disapproval, the Subdivision Agent shall inform the subdivider in writing of the reasons for disapproval and the changes required to obtain approval.

**Sec. 19-3-5. Authority to construct improvements.**

The subdivider may install the monuments, roads and other improvements proposed on the plat only after approval of a preliminary plat. Preliminary plat approval shall be effective for five years *provided the subdivider submits a final subdivision plat for all or a portion of the*

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<sup>2</sup> For state law authorizing counties to require a preliminary plat, see Code of Va., § 15.2-2260.

For state law regarding preliminary plat approval, see Code of Va., §§ 15.2-2258, 15.2-2259.

*property within one year of such approval and thereafter diligently pursues approval of the final subdivision plat.*

*“Diligent pursuit of approval” means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plat approval, and upon ninety (90) days’ written notice by certified mail to the subdivider, the commission or other agent may revoke such approval upon a specific finding of fact that the subdivider has not diligently pursued approval of the final subdivision plat.*

~~if the subdivider has begun and diligently pursued construction during that period.~~  
Otherwise the

*After five years from the date of the last recorded plat, unless the preliminary plat indicates phased implementation consistent with Section 19-7-6 of this chapter, the preliminary plat shall become null, and void after five years unless the preliminary plat indicates phased implementation consistent with 19-7-6 of this chapter.* The foregoing notwithstanding, the installation of any improvements after the approval of a preliminary plat shall be at the sole risk of the subdivider and shall not entitle the subdivider to the approval of any final plat which is not otherwise approvable.

**Sec. 19-3-6. Final plat.**

*All final plats shall be reviewed and acted upon as required by Virginia Code § 15.2-2259 and this chapter.*

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**Article 6. Final Plats**

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**Sec. 19-3-6.3 Recordation.**

An approved plat shall be filed for recordation within six months after final approval. Such approval shall be withdrawn and the plat marked void and returned to the approving official if the approved plat is not filed for recordation within six months, subject to the exception for facilities to be dedicated to public use in Section ~~15.2-2241(8)~~ 15.2-2241.A(8) of the Code of Virginia.

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**Sec. 19-6-3. Final plat information.**

The final plat shall clearly show:

- (a) Name of proposed subdivision;
- (b) Name, address and telephone number of subdivider;
- (c) Name, address, telephone number, and seal of surveyor or engineer;

- (d) Graphic scale, title, date, and north arrow;
- (e) Scaled vicinity map showing the location of the parcel to be subdivided and its relationship to the surrounding roads;
- (f) Locations of proposed driveway connections onto public streets;
- (g) Boundaries of the parcel to be subdivided with all bearings and distances indicated;
- (h) Tax parcel number, zoning district, source of title, and location of the last instrument in the chain of title for all parcels to be subdivided;
- (i) Sufficient data to readily determine and reproduce on the ground the location, bearing and length of every road centerline, subdivision boundary line and lot line;
- (j) All rights-of-way, easements, or areas to be dedicated, reserved, or used for any purpose other than single-family detached dwellings. Common or shared easements shall be provided for public service corporations and other service providers in accordance with the requirements of Section ~~15.2-2241(6)~~ 15.2-2241.A(6) of the Code of Virginia; and
- (k) Sufficient data to demonstrate compliance with the approved preliminary plat.

.....

**Article 7. Subdivision Design Standards**

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**Sec. 19-7-6. Phasing.**

If the subdivider desires to complete the improvements shown on the preliminary plat over a period of more than one year, he may submit a preliminary plat showing the entire development at completion, and delineating two or more phases to be improved in succession, together with a schedule for completion of each phase. After such plat has been approved, he may construct the improvements in, and submit a final plat for, each phase, consistent with the approved schedule. Pursuant to the requirements of Section ~~15.2-2241(5)~~ 15.2-2241.A(5) of the Code of Virginia, if a developer records a final plat which is a section of a subdivision as shown on an approved preliminary plat, the developer shall have the right to record the remaining sections shown on the preliminary plat for a period of five years from the recordation date of the first section. (Ord. 8-1-12)

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**Article 8. Required Improvements**

### Sec. 19-8-1. Streets.<sup>3</sup>

An adequate system of streets shall be constructed to provide access from all lots to the state highway system.

- (a) In any major subdivision, as defined herein, all streets shall be designed and constructed in conformance with the Virginia Department of Transportation's subdivision street requirements. Preliminary plans for all such streets shall have been approved by the Virginia Department of Transportation prior to approval of the preliminary plat.
- (b) Proposed street names shall be shown on the preliminary plat, and may be changed by the Subdivision Agent. Names of new streets shall not duplicate names of existing streets, irrespective of suffixes. Any street that is a continuation of an existing street shall bear the name of the existing street. The governing body may institute a fee in order to acquire and install all street identification signs. Where a street is planned for future extension, and a stub street serving three or more lots is proposed for construction as part of a subdivision, a temporary turnaround shall be provided on such stub street. Such turnaround shall be of adequate location, size and design as determined by the Subdivision Agent. All stub streets shall be marked with a metal sign clearly providing public notice that the street is subject to future extension.
- (c) Any private road in a subdivision which will not be constructed to Virginia Department of Transportation standards shall be located in a right-of-way or easement at least 50 feet in width and shall be so designed and built as to provide adequate access by ordinary passenger vehicles in all weather, in accordance with the provisions of this section as set forth hereinafter. All lots that are within a subdivision which is served by any private road shall be prohibited direct vehicular access from an existing public road by deed restriction or other means. Except in the case of lots intended, designed and used (a) for attached single-family, two-family or multi-family dwellings; (b) for rural cluster lots; or (c) for commercial or industrial uses, no lot served by a private road may be less than 10 acres in area, and no such private road shall serve more than 5 lots. The plat, and each deed, shall clearly state that the county and Commonwealth are not responsible for the maintenance of the roads. A road maintenance agreement, approved by the county attorney and the Subdivision Agent, shall be filed with the deeds of all lots to be served by such private road. Such agreement shall require the landowners, jointly and severally, to cooperate in and pay for the maintenance of the road such that emergency vehicles and other necessary traffic can reach all of the lots with reasonable ease. Each plat showing any such private road shall contain a certification from a registered surveyor or engineer in substantially the following form: "The private road shown on this plat will provide reasonable access to all lots served by such road by emergency vehicles and ordinary passenger vehicles as required by Section 19-8-1 of the Fluvanna County Code."

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<sup>3</sup> For state law as to streets in subdivisions, see Code of Va., § 15.2-2241.A.

Private roads shall conform to the following minimum specific construction standards:

Number of Lots	Right-of-Way Width	Minimum Width of Travelway	Surface Treatment	Minimum Ditchline	Maximum Grade
1-5	50 feet	14 feet	Gravcl (#25 or #26), 3 inches in depth over suitable base	4 feet in width, with a minimum of 4% slope from the travelway and ditches a minimum of 18 inches in depth	9%

(Ord. 11-17-04; Ord. 8-1-12)

.....  
**Sec. 19-8-4. Storm drainage.**<sup>4</sup>

Proper and adequate storm drainage systems shall be installed as required by the Virginia Department of Transportation and/or Chapter 6: *Erosion and Sedimentation Control* of this code, such that the proposed development will not result in undue increase in runoff, erosion or sedimentation to any downhill or downstream area. Such plans shall have been reviewed by the Soil and Water Conservation District office, and approved by the county and the Virginia Department of Transportation, as applicable, prior to the approval of the preliminary plat.

- (a) Wherever required by the Virginia Department of Transportation, or under an approved Master Plan or Conditional Zoning provisions of Chapter 22, concrete curb and gutter shall be installed along both sides of street serving 200 or more lots, and on at least one side of every street serving *fifty* (50) or more lots, and an engineered storm drainage system shall be installed. The use of perforated curbs and cul-de-sacs with landscaped islands is permitted. All such improvements shall comply with Virginia Department of Transportation standards.
- (b) Drainage easements of an appropriate width, not less than six (6) feet, shall be reserved where necessary, and shall be shown on the plat.

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<sup>4</sup> For state law as to storm drainage, see Code of Va., § 15.2-2241.A(3), (4).

- (c) All streets and building sites shall be at least one foot above the floodplain elevation.
- (d) The use of low-impact development (LID) techniques to control stormwater runoff is encouraged. Examples of LID techniques include, but are not limited to, the use of permeable paving materials, rain gardens, bioswales, infiltration trenches, and tree box filters designed to capture stormwater and facilitate on-site infiltration. (Ord. 8-1-12)

**Sec. 19-8-5. Monuments.<sup>5</sup>**

Iron rods or pipes shall be set at all lot corners and at all points of curvature or tangent on streets. Rods or pipes shall be at least one-half (1/2) inch in diameter and *twenty-four (24)* inches long, and shall be set flush with the finished grade. (Ord. 8-1-12)

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**Section 19-8-7. Utilities.<sup>6</sup>**

For major and minor subdivisions, all utilities including, but not limited to, wires, cables, pipes, conduits and appurtenant equipment for electric, telephone, gas, cable television, or similar services shall be placed underground except, however, the following shall be permitted above ground.

- (a) Electric transmission lines and facilities in excess of 50 kilovolts.
- (b) Equipment, including electric distribution transformers, switch gear, meter pedestals, telephone pedestals, streetlighting poles or standards, radio antennae, traffic control devices, and associated equipment which is, in conformance with accepted utility practices, normally installed above ground.
- (c) Meters, service connections and similar equipment normally attached to the outside wall of a customer's premises.
- (d) Temporary above ground facilities required in conjunction with an authorized construction project.
- (e) Existing utilities located above ground in proposed subdivisions may be maintained, repaired or upgraded to maintain current levels of service.

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<sup>5</sup> For state law as to monuments, see Code of Va., § 15.2-2241.A(7).

<sup>6</sup> For state law as to utilities, see Code of Va., § 15.2-2241.A(6).

- (f) Whenever any existing above ground utilities internal to a major subdivision require relocation for any reason they shall be placed underground. (Ord. 8-1-12)

**2015 Fluvanna County Code Update – Clerical Updates to Chapter 19 Subdivisions.  
Review by Planning Commission.**

\*Note: FN = Footnote, “Code Reference” is to Virginia Code.

	<b>Public Purpose:</b> Amend and Re-enact the Code to conform to enabling state and federal legislation.
	<b>Chapter 19: Subdivisions Clerical Amendments</b>
<b>Fluvanna Code §§</b>	<b>Update</b>
Sec. 19-1-3.	<b>Add FN:</b> <i>for similar state law provision, see Code of Va., § 15.2-2254.</i>
Sec. 19-3-4.	<b>Add FN:</b> <i>for state law authorizing county to require a preliminary plat, see Code of Va., § 15.2-2260. For state law regarding preliminary plat approval, see Code of Va., §§ 15.2-2258, 15.2-2259.</i>
Sec. 19-3-6.3	<b>Correct code reference:</b> “Section 15.2-2241.A(8).”
Sec. 19-6-3(j)	<b>Correct code reference in (j):</b> “Section 15.2-2241.A(6).”
Sec. 19-7-6.	<b>Correct code reference:</b> “Section 15.2-2241.A(5).”
Sec. 19-8-1.	<b>Add FN:</b> <i>for state law as to streets in subdivisions, see Code of Va., § 15.2-2241.A.</i>
Sec. 19-8-4.	<b>Add FN:</b> <i>for state law as to storm drainage, see Code of Va., § 15.2-2241.A(3),(4).</i>
Sec. 19-8-5.	<b>Add FN:</b> <i>for state law as to monuments, see Code of Va., § 15.2-2241.A(7).</i>
Sec. 19-8-7.	<b>Add FN:</b> <i>for state law as to utilities, see Code of Va., § 15.2-2241.A(6).</i>

2015 Fluvanna County Code Update – Substantive Updates to Chapter 19 Subdivisions.  
 Review by Planning Commission.

	<b>Public Purpose:</b> Amend and Re-enact the Code to conform to enabling state and federal legislation.
	<b>Chapter 19: Subdivisions</b> <b>Substantive Amendments</b>
<b>Fluvanna Code §§</b>	<b>Mandatory Update</b>
Sec. 19-3-5.	<p>Update to reflect amendment to Va. Code § 15.2-2260.F.,G.</p> <p>The subdivider may install the monuments, roads and other improvements proposed on the plat only after approval of a preliminary plat. Preliminary plat approval shall be effective for five years <i>provided the subdivider submits a final subdivision plat for all or a portion of the property within one year of such approval and thereafter diligently pursues approval of the final subdivision plat.</i></p> <p><i>“Diligent pursuit of approval” means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plat approval, and upon 90 days’ written notice by certified mail to the subdivider, the commission or other agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.</i></p> <p><del>if the subdivider has begun and diligently pursued construction during that period. Otherwise the</del></p> <p><del>After five years from the date of the last recorded plat, unless the preliminary plat indicates phased implementation consistent with 19-7-6 of this chapter, the preliminary plat shall become null and void after five years unless the preliminary plat indicates phased implementation consistent with 19-7-6 of this chapter.</del> The foregoing notwithstanding, the installation of any improvements after the approval of a preliminary plat shall be at the sole risk of the subdivider and shall not entitle the subdivider to the approval of any final plat which is not otherwise approvable.</p>
Sec. 19-3-6.	<p>Add text:</p> <p><i>All final plats shall be reviewed and acted upon as required by Virginia Code § 15.2-2259 and this chapter.</i></p>

*The Fluvanna County Planning Commission resolves to propose an amendment and reenactment of the Fluvanna County subdivision ordinance entitled “AN ORDINANCE TO AMEND AND REENACT CHAPTER 19, ARTICLES 1, 3, 6, 7, AND 8 OF THE FLUVANNA COUNTY CODE BY CERTAIN AMENDMENTS TO SECTIONS AND SUBSECTIONS 19-1-3, 19-3-4, 19-3-5, 19-3-6, 19-3-6.3, 19-6-3, 19-7-6, 19-8-1, 19-8-4, 19-8-5, AND 19-8-7. THEREOF, AMENDING AND REENACTING THE FLUVANNA COUNTY SUBDIVISION ORDINANCE TO CONFORM TO THE CURRENT ENABLING LEGISLATION, AS AMENDED.”*

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**Chapter 19  
SUBDIVISIONS**

*Article 1. General Provisions.*

.....

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No person shall subdivide land without making and recording a plat of such subdivision and fully complying with the provisions of this chapter.

- (a) No such plat shall be recorded unless it is in compliance with this ordinance and has been approved by the Subdivision Agent appointed by the Fluvanna County Board of Supervisors as provided in this chapter.
- (b) No person shall sell or convey any lot or part of a subdivision unless the plat of the subdivision has been approved and recorded.
- (c) Any person violating the foregoing provisions of this section shall be subject to a fine of not more than \$500 for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies provided in this chapter.
- (d) No clerk of any court shall file or record a plat of a subdivision required by this chapter to be recorded until such plat has been approved as required by this chapter.

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<sup>1</sup> For similar state law provision, see Code of Va., § 15.2-2254.

- (e) No permit or other approval shall be issued by any official of the County for any improvement relating to any lot or parcel of land subdivided or transferred or sold in violation of this chapter until such violation shall have been abated.

.....

**Article 3. Process.**

.....

**Sec. 19-3-4. Preliminary plat.<sup>2</sup>**

For any minor or major subdivision, after receiving the Subdivision Agent’s comments on a sketch plan, the subdivider shall submit a preliminary plat that satisfies the requirements of Article 4 of this chapter to the Subdivision Agent.

- (a) For every minor or major subdivision, the subdivider shall submit, to the Subdivision Agent, copies of a preliminary plat in a number sufficient to allow review by all appropriate agencies as applicable and as determined by the Subdivision Agent. Within ten days the Agent shall review the preliminary plat application for completeness, and if it is incomplete, so notify the subdivider, specifying instructions for its completion. No preliminary plat shall be deemed to be officially submitted for approval unless and until the Subdivision Agent finds it to be complete. Upon his determination that such preliminary plat application is complete, the Subdivision Agent shall retain copies for his review, forward copies to all agencies whose comments are necessary for consideration of the plat.
- (b) For any minor subdivision, the Subdivision Agent shall approve or disapprove a complete preliminary plat within thirty days of its submission. In the case of disapproval, the Subdivision Agent shall inform the subdivider in writing of the reasons for disapproval and the changes required to obtain approval.
- (c) For any major subdivision, the Subdivision Agent shall review the preliminary plat and approve or disapprove the preliminary plat within forty-five days of its submission. In the case of disapproval, the Subdivision Agent shall inform the subdivider in writing of the reasons for disapproval and the changes required to obtain approval.

**Sec. 19-3-5. Authority to construct improvements.**

The subdivider may install the monuments, roads and other improvements proposed on the plat only after approval of a preliminary plat. Preliminary plat approval shall be effective for five years *provided the subdivider submits a final subdivision plat for all or a portion of the*

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<sup>2</sup> For state law authorizing counties to require a preliminary plat, see Code of Va., § 15.2-2260.

For state law regarding preliminary plat approval, see Code of Va., §§ 15.2-2258, 15.2-2259.

property within one year of such approval and thereafter diligently pursues approval of the final subdivision plat.

“Diligent pursuit of approval” means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plat approval, and upon ninety (90) days’ written notice by certified mail to the subdivider, the commission or other agent may revoke such approval upon a specific finding of fact that the subdivider has not diligently pursued approval of the final subdivision plat.

~~if the subdivider has begun and diligently pursued construction during that period. Otherwise the~~

After five years from the date of the last recorded plat, unless the preliminary plat indicates phased implementation consistent with Section 19-7-6 of this chapter, the preliminary plat shall become null. ~~and void after five years unless the preliminary plat indicates phased implementation consistent with 19-7-6 of this chapter.~~ The foregoing notwithstanding, the installation of any improvements after the approval of a preliminary plat shall be at the sole risk of the subdivider and shall not entitle the subdivider to the approval of any final plat which is not otherwise approvable.

**Sec. 19-3-6. Final plat.**

All final plats shall be reviewed and acted upon as required by Virginia Code § 15.2-2259 and this chapter.

.....

**Article 6. Final Plats.**

.....

**Sec. 19-3-6.3. Recordation.**

An approved plat shall be filed for recordation within six months after final approval. Such approval shall be withdrawn and the plat marked void and returned to the approving official if the approved plat is not filed for recordation within six months, subject to the exception for facilities to be dedicated to public use in Section ~~15.2-2241(8)~~ 15.2-2241.A(8) of the Code of Virginia.

.....

**Sec. 19-6-3. Final plat information.**

The final plat shall clearly show:

- (a) Name of proposed subdivision;
- (b) Name, address and telephone number of subdivider;
- (c) Name, address, telephone number, and seal of surveyor or engineer;

- (d) Graphic scale, title, date, and north arrow;
- (e) Scaled vicinity map showing the location of the parcel to be subdivided and its relationship to the surrounding roads;
- (f) Locations of proposed driveway connections onto public streets;
- (g) Boundaries of the parcel to be subdivided with all bearings and distances indicated;
- (h) Tax parcel number, zoning district, source of title, and location of the last instrument in the chain of title for all parcels to be subdivided;
- (i) Sufficient data to readily determine and reproduce on the ground the location, bearing and length of every road centerline, subdivision boundary line and lot line;
- (j) All rights-of-way, easements, or areas to be dedicated, reserved, or used for any purpose other than single-family detached dwellings. Common or shared easements shall be provided for public service corporations and other service providers in accordance with the requirements of Section ~~15.2-2241(6)~~ 15.2-2241.A(6) of the Code of Virginia; and
- (k) Sufficient data to demonstrate compliance with the approved preliminary plat.

.....

***Article 7. Subdivision Design Standards.***

.....

**Sec. 19-7-6. Phasing.**

If the subdivider desires to complete the improvements shown on the preliminary plat over a period of more than one year, he may submit a preliminary plat showing the entire development at completion, and delineating two or more phases to be improved in succession, together with a schedule for completion of each phase. After such plat has been approved, he may construct the improvements in, and submit a final plat for, each phase, consistent with the approved schedule. Pursuant to the requirements of Section ~~15.2-2241(5)~~ 15.2-2241.A(5) of the Code of Virginia, if a developer records a final plat which is a section of a subdivision as shown on an approved preliminary plat, the developer shall have the right to record the remaining sections shown on the preliminary plat for a period of five years from the recordation date of the first section. (Ord. 8-1-12)

.....

***Article 8. Required Improvements.***

### **Sec. 19-8-1. Streets.<sup>3</sup>**

An adequate system of streets shall be constructed to provide access from all lots to the state highway system.

- (a) In any major subdivision, as defined herein, all streets shall be designed and constructed in conformance with the Virginia Department of Transportation's subdivision street requirements. Preliminary plans for all such streets shall have been approved by the Virginia Department of Transportation prior to approval of the preliminary plat.
- (b) Proposed street names shall be shown on the preliminary plat, and may be changed by the Subdivision Agent. Names of new streets shall not duplicate names of existing streets, irrespective of suffixes. Any street that is a continuation of an existing street shall bear the name of the existing street. The governing body may institute a fee in order to acquire and install all street identification signs. Where a street is planned for future extension, and a stub street serving three or more lots is proposed for construction as part of a subdivision, a temporary turnaround shall be provided on such stub street. Such turnaround shall be of adequate location, size and design as determined by the Subdivision Agent. All stub streets shall be marked with a metal sign clearly providing public notice that the street is subject to future extension.
- (c) Any private road in a subdivision which will not be constructed to Virginia Department of Transportation standards shall be located in a right-of-way or easement at least 50 feet in width and shall be so designed and built as to provide adequate access by ordinary passenger vehicles in all weather, in accordance with the provisions of this section as set forth hereinafter. All lots that are within a subdivision which is served by any private road shall be prohibited direct vehicular access from an existing public road by deed restriction or other means. Except in the case of lots intended, designed and used (a) for attached single-family, two-family or multi-family dwellings; (b) for rural cluster lots; or (c) for commercial or industrial uses, no lot served by a private road may be less than 10 acres in area, and no such private road shall serve more than 5 lots. The plat, and each deed, shall clearly state that the county and Commonwealth are not responsible for the maintenance of the roads. A road maintenance agreement, approved by the county attorney and the Subdivision Agent, shall be filed with the deeds of all lots to be served by such private road. Such agreement shall require the landowners, jointly and severally, to cooperate in and pay for the maintenance of the road such that emergency vehicles and other necessary traffic can reach all of the lots with reasonable ease. Each plat showing any such private road shall contain a certification from a registered surveyor or engineer in substantially the following form: "The private road shown on this plat will provide reasonable access to all lots served by such road by emergency vehicles and ordinary passenger vehicles as required by Section 19-8-1 of the Fluvanna County Code."

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<sup>3</sup> For state law as to streets in subdivisions, see Code of Va., § 15.2-2241.A.

Private roads shall conform to the following minimum specific construction standards:

Number of Lots	Right-of-Way Width	Minimum Width of Travelway	Surface Treatment	Minimum Ditchline	Maximum Grade
1-5	50 feet	14 feet	Gravel (#25 or #26), 3 inches in depth over suitable base	4 feet in width, with a minimum of 4% slope from the travelway and ditches a minimum of 18 inches in depth	9%

(Ord. 11-17-04; Ord. 8-1-12)

.....

**Sec. 19-8-4. Storm drainage.<sup>4</sup>**

Proper and adequate storm drainage systems shall be installed as required by the Virginia Department of Transportation and/or Chapter 6: *Erosion and Sedimentation Control* of this code, such that the proposed development will not result in undue increase in runoff, erosion or sedimentation to any downhill or downstream area. Such plans shall have been reviewed by the Soil and Water Conservation District office, and approved by the county and the Virginia Department of Transportation, as applicable, prior to the approval of the preliminary plat.

- (a) Wherever required by the Virginia Department of Transportation, or under an approved Master Plan or Conditional Zoning provisions of Chapter 22, concrete curb and gutter shall be installed along both sides of street serving 200 or more lots, and on at least one side of every street serving *fifty (50)* or more lots, and an engineered storm drainage system shall be installed. The use of perforated curbs and cul-de-sacs with landscaped islands is permitted. All such improvements shall comply with Virginia Department of Transportation standards.
- (b) Drainage easements of an appropriate width, not less than six (6) feet, shall be reserved where necessary, and shall be shown on the plat.

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<sup>4</sup> For state law as to storm drainage, see Code of Va., § 15.2-2241.A(3), (4).

- (c) All streets and building sites shall be at least one foot above the floodplain elevation.
- (d) The use of low-impact development (LID) techniques to control stormwater runoff is encouraged. Examples of LID techniques include, but are not limited to, the use of permeable paving materials, rain gardens, bioswales, infiltration trenches, and tree box filters designed to capture stormwater and facilitate on-site infiltration. (Ord. 8-1-12)

**Sec. 19-8-5. Monuments.<sup>5</sup>**

Iron rods or pipes shall be set at all lot corners and at all points of curvature or tangent on streets. Rods or pipes shall be at least one-half (*1/2*) inch in diameter and *twenty-four (24)* inches long, and shall be set flush with the finished grade. (Ord. 8-1-12)

.....

**Section 19-8-7. Utilities.<sup>6</sup>**

For major and minor subdivisions, all utilities including, but not limited to, wires, cables, pipes, conduits and appurtenant equipment for electric, telephone, gas, cable television, or similar services shall be placed underground except, however, the following shall be permitted above ground.

- (a) Electric transmission lines and facilities in excess of 50 kilovolts.
- (b) Equipment, including electric distribution transformers, switch gear, meter pedestals, telephone pedestals, streetlighting poles or standards, radio antennae, traffic control devices, and associated equipment which is, in conformance with accepted utility practices, normally installed above ground.
- (c) Meters, service connections and similar equipment normally attached to the outside wall of a customer's premises.
- (d) Temporary above ground facilities required in conjunction with an authorized construction project.
- (e) Existing utilities located above ground in proposed subdivisions may be maintained, repaired or upgraded to maintain current levels of service.

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<sup>5</sup> For state law as to monuments, see Code of Va., § 15.2-2241.A(7).

<sup>6</sup> For state law as to utilities, see Code of Va., § 15.2-2241.A(6).

(f) Whenever any existing above ground utilities internal to a major subdivision require relocation for any reason they shall be placed underground.  
(Ord. 8-1-12)

CAPITAL IMPROVEMENTS PLAN -- FY 2017-21 (v.3)						FY2017 CAPITAL BUDGET					FY2018 Plan		FY2019 Plan		FY2020 Plan		FY2021 Plan		FY17-21 Total									
Updated 10/15/15						TOTAL BY YEAR					\$15,806,820		\$6,371,503		\$7,930,200		\$3,268,700		\$13,924,200		\$47,301,423							
* Denotes a new project, all others were part of the FY16-20 CIP						FUNDING SOURCE					CASH OPERATING	FUND BALANCE	GRANT	PROFFER	BORROW	OTHER	Cash	OTHER	Cash	OTHER	Cash	OTHER	Cash	OTHER				
* Proffers						TOTAL BY SOURCE					\$ 675,000	\$ 15,031,820	\$ 100,000	\$ -	\$ -	\$ -	\$ -	\$ 6,371,503	\$ -	\$ 5,305,200	\$ 2,625,000	\$ 3,268,700	\$ -	\$ 2,924,200	\$ 11,000,000			
						New	Prof	Dept Rank	PC Rank	Previously Funded Ongoing Projects																		
CAPITAL PROJECTS						TOTALS					\$ -	\$ 13,598,120	\$ 100,000	\$ -	\$ -	\$ -	\$ -	\$ 4,978,803	\$ -	\$ 4,186,000	\$ 2,625,000	\$ 2,123,000	\$ -	\$ 1,752,000	\$ 11,000,000	\$ 40,362,923		
<b>GOVERNMENTAL</b>																												
Countywide Building Assessments								1		25,000		75,000															75,000	
New County & Schools Administration Building								2																		11,000,000	11,000,000	
<b>COMMUNITY SERVICES</b>																												
<b>Parks &amp; Recreation</b>																												
PG Picnic Shelter (Near Ballfields)							*	1				35,000																35,000
PG Multi Function Pavillion							*	1				55,000																55,000
Crofton Trail Park Development								1				40,000															40,000	
PG Farm Heritage Museum								1				10,000	100,000															110,000
PG Picnic Shelter (Near Existing Shelter)							*	2				35,000																35,000
PG Athletic Fields							*	2				315,000															315,000	
PG Playground Expansion								2				40,000															40,000	
PG Athletic Field Lighting (4 fields)							*	2				650,000															650,000	
Multigenerational Center								3													2,625,000						2,625,000	
PG Basketball and Tennis Courts								3												151,000							151,000	
PG Outdoor Swimming Pool & Pool House Building								3												900,000							900,000	
PG Spray Ground Park								3												150,000							150,000	
<b>ENTERPRISE</b>																												
Design and Construct JRWA Raw Water System/Intake Structure							*	1		2,750,000		2,250,000																2,250,000
<b>PUBLIC WORKS</b>																												
Library & Public Safety- Combined Potable Water System								1				50,000																50,000
Install Monitored Fire Detection & Alarm Systems Fire & Courts							*	1				35,000																35,000
Treasurer's Building Upgrades								1				250,000								650,000			100,000				1,000,000	
Design & Construct a Water/Sewer System for Zion Crossroads							*	1		4,650,000		6,000,000															6,000,000	
Design & Construct a Public Water System for Pleasant Grove								2				225,000								300,000			475,000					1,000,000
<b>PUBLIC SAFETY</b>																												
<b>Sheriff</b>																												
<b>E911</b>																												
Computer Aided Dispatch/ Records Management System							*	1				500,000																500,000
<b>Fire &amp; Rescue</b>																												
Fluvanna F&R Personal Protective Equip. Replacement								1		140,000		71,750															71,750	
Vehicle Apparatus - Replacement/ Rechassis							*	1				410,000								60,000		819,000		725,000		456,000		2,470,000
Fluvanna F&R Thermal Inaging Camera Replacement								1				50,000							50,000								100,000	
Self Contained Breathing Apparatus (SCBA) Replacement								1													241,000		248,000		256,000		745,000	
Fluvanna F&R Toughbook Replacement							*	1				28,000															28,000	
Fire & EMS Chief Vehicle							*	2				28,500															28,500	
Fluvanna F&R CPR Assist Devices							*	2				44,550						29,700									74,250	
Fluvanna F&R Incident Data Tablets							*	3				20,320															20,320	
<b>SCHOOLS</b>																												
Computer Instructional Technology & Infrastructure Replacement								1				600,000							600,000		600,000		600,000		600,000		3,000,000	
School Board Office Renovations							*	1				1,500,000																1,500,000
School Board Office Roof							*	1				180,000																180,000
Elementary Playground Equipment								3				100,000															100,000	
Abrams Building Renovation								2										2,800,000									2,800,000	
Central Elementary HVAC Replacement							*	2										1,139,103									1,139,103	
Underground Fuel Tank Replacement							*	1													200,000						200,000	
Fluvanna Middle School Restroom Renovations							*	2														450,000					450,000	
Carysbrook Elementary Roof Replacement							*	2															440,000				440,000	
<b>ADDITIONAL GENERAL FUND OPERATIONAL COSTS</b>						<b>TOTALS</b>					<b>18,250</b>							<b>193,250</b>		<b>506,250</b>		<b>415,250</b>		<b>415,250</b>		<b>1,548,250</b>		
PG Picnic Shelter												500							500		500		500		500		2,500	
PG Multi-Purpose Structure-Permanent Site for Fluvanna Farmer's Market												500							500		500		500		500		2,500	
Crofton Park- Staff, Supplies, Maintenance											13,000							13,000		13,000		13,000		13,000		65,000		
PG Farm Museum - Personnel, Utilities, Insurance & Contract Svcs											500							500		500		500		500		2,500		
PG Picnic Shelter Replaces Pole Barn											500							500		500		500		500		2,500		
PG Athletic Fields											500							500		500		500		500		2,500		
PG Park Playground											250							250		250		250		250		1,250		
PG Athletic Field Lighting (4 Fields)											2,000							2,000		2,000		2,000		2,000		10,000		
Multigenerational Center																		109,000		109,000		26,000		26,000		161,000		
PG Pool & Pool House- Staff, Utilities, Insurance & Supplies																			23,000		23,000		15,000		15,000		53,000	
PG Spray Ground Park- Utilities & Supplies																			6,000		6,000		6,000		6,000		18,000	
Fire & EMS Vehicle											500						500		500		500		500		2,500			
JRWA Raw Water Intake/Pump Station																		50,000		100,000		100,000		100,000		350,000		
Zion Crossroads Water/Sewer System																		125,000		250,000		250,000		250,000		875,000		
<b>MAJOR REPAIR &amp; REPLACEMENT (MRR)</b>						<b>TOTALS</b>					<b>\$ 675,000</b>	<b>\$ 1,433,700</b>	<b>\$ -</b>	<b>\$ 1,392,700</b>	<b>\$ -</b>	<b>\$ 1,119,200</b>	<b>\$ -</b>	<b>\$ 1,145,700</b>	<b>\$ -</b>	<b>\$ 1,172,200</b>	<b>\$ -</b>	<b>\$ 6,938,500</b>						
<b>COUNTY MRR WEDGE</b>																												
COUNTY RESERVE MAINTENANCE FUND (CASH)								1			200,000							200,000		200,000		200,000		200,000			1,000,000	
Carysbrook Building Reno & Space Utilization Improvements								1				50,000															50,000	
Courts Building-Replace Lighting Controls and Light Fixtures							*	1				30,000						150,000									180,000	
Roof Replacement for Carysbrook (Gym and Social Services)								1				110,000															110,000	
Building Envelope (Exterior) Renewal and Repair								1				150,000															150,000	
Demolish Maintenance Shop								2				35,000															35,000	
Fence Repairs & Replacement								2				79,500															79,500	
Convert Basement of Admin Building to Secure Storage								2				35,000						35,000									70,000	
Concrete Walks, Walls & Steps Repair & Renewal								2				35,000															35,000	
Courthouse Grounds-Slope Plantings								3				35,000																35,000
Courts Building Gutters								3																				95,000
<b>SCHOOLS MRR WEDGE</b>																												
SCHOOLS RESERVE MAINTENANCE FUND (CASH)								1			200,000							200,000		200,000		200,000		200,000			1,000,000	
Floor Covering Replacement-Schools								1				200,000																200,000
Programmed Fleet Repl. - County Vehicles (\$??K Baseline)								1				190,000																



**COUNTY OF FLUVANNA, VA  
FY 2017-2021 CAPITAL IMPROVEMENTS PLAN**

**Project Title:** Design and Construction of JRWA Raw Water System/Intake Structure  
**Agency/Department:** Public Works **Contact: (Print Name)** Wayne Stephens **Order in Rank #:** 1

<b>Select One Category:</b>	<b>Project Description, Justification &amp; Location (Add'l space available on page 3):</b>
<input type="checkbox"/> FY16 Proj - add'l funding	<p>This project provides additional funds for payment of Fluvanna County's share (50%) of the design and construction costs for a raw water conveyance system to be owned and operated by the James River Water Authority. The proposed raw water will serve the future needs of Fluvanna and Louisa Counties by providing access points for directing average flows of up to 1.5 million gallons per day to one or more future surface water treatment plants within Fluvanna County, and for conveying average daily flows of up to 1.5 million gallons to Louisa County.</p> <p>The project itself involves design and construction of a raw water intake structure &amp; associated pumping facilities on the James River near Columbia, as well as up to approximately 10,000 linear feet of raw water line and two "tees" to allow future connections by Fluvanna and Louisa Counties.</p>
<input checked="" type="checkbox"/> FY17-20 Proj in current CIP	
<input type="checkbox"/> New Project FY17-21	

Revenues (all figures in \$)	Proposed Source (if known)	FY2017	FY2018	FY2019	FY2020	FY2021	Total FY 17 - FY 21
Borrowing - <i>Indicate annual debt service &amp; first year</i>							0.00
Cash		2,250,000.00					2,250,000.00
Revenue Bonds- <i>Indicate source of revenue</i>							0.00
Grant							0.00
Other							0.00
<b>Totals</b>		2,250,000.00	0.00	0.00	0.00	0.00	2,250,000.00

Expenditures (all figures in \$)	Prospective Vendor(s) (if known)	FY2017	FY2018	FY2019	FY2020	FY2021	Total FY 17 - FY 21
Engineering & Planning (10% of project costs)							0.00
Land Acquisition (estimate \$15k per acre)							0.00
Construction		2,250,000.00					2,250,000.00
Equipment							0.00
Other							0.00
<b>Totals</b>		2,250,000.00	0.00	0.00	0.00	0.00	2,250,000.00

For Office Use Only:	
County Administrator Recommendation:	
Planning Commission Recommendation:	
	Department Head Signature

COUNTY OF FLUVANNA, VA  
 FY 2017-2021 CAPITAL IMPROVEMENTS PLAN  
 PROJECTED OPERATIONAL COSTS AND REVENUES

**Project Title:** Design and Construction of JRWA Raw Water System/Intake Structure

**Instructions:** Enter the anticipated additional operational costs for the project beginning with the projected year of completion. If additional staff will be needed, indicate the number of positions planned. Also enter any anticipated operational revenue for the projected project.

Additional Anticipated Operational Expenses	FY2017	FY2018	FY2019	FY2020	FY2021	Total FY 17 - FY 21
Additional Staff Salary						0.00
VRS	10.58%					0.00
FICA	7.65%					0.00
Group Life	1.19%					0.00
Health Insurance						0.00
Worker's Comp						0.00
Vehicle						0.00
Vehicle Insurance						0.00
Utilities						0.00
Furniture and Fixtures						0.00
Equipment						0.00
Contractual Costs						0.00
Other		50,000.00	100,000.00	100,000.00	100,000.00	350,000.00
						0.00
<b>Total Operational Costs</b>	0.00	50,000.00	100,000.00	100,000.00	100,000.00	350,000.00
<b>Total Anticipated Operational Revenues</b>						0.00

**How does this project relate to or address the future goals outlined in the Comprehensive Plan? Be Specific in description and reference comp plan chapter.**

Chapter 4 of the County's Comprehensive Plan (Infrastructure) includes the following in its "Vision" Section: "Water and sewer infrastructure is critical to the long-term viability of communities in terms of cost-effectiveness and efficiency."



**Project Title:** Design and Construction of JRWA Raw Water System/Intake Structure

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**Additional Narrative Description or Special Explanations:**

This area is a large, empty rectangular box intended for providing additional narrative description or special explanations for the project. It is currently blank.



**COUNTY OF FLUVANNA, VA  
FY 2017-2021 CAPITAL IMPROVEMENTS PLAN**

**Project Title:** Design & Construct a Water & Sewer System for Zion Crossroads Development Area  
**Agency/Department:** Public Works      **Contact: (Print Name)** Wayne Stephens      **Order in Rank #:** 1

<b>Select One Category:</b>	<b>Project Description, Justification &amp; Location (Add'l space available on page 3):</b>
<input type="checkbox"/> FY16 Proj - add'l funding	<p>This is a multi year-year CIP Project which entails design and construction of a drinking water distribution system and a sewage collection and conveyance system in the Zion Crossroads development area.</p> <p>The project includes a water booster station, elevated water storage tank and sufficient water mains to provide a basic distribution system. It also includes the sewage force-mains needed to provide a low-pressure force main collection and conveyance system.</p> <p>This project assumes treated drinking water, and treatment of sewage will be provided by the Department of Corrections at their prevailing rate. Total system capacities resulting from this project will be 150,000 gallons per day, which will be sufficient for approximately 10 years of growth at currently planned growth rates.</p>
<input checked="" type="checkbox"/> FY17-20 Proj in current CIP	
<input type="checkbox"/> New Project FY17-21	

Revenues (all figures in \$)	Proposed Source (if known)	FY2017	FY2018	FY2019	FY2020	FY2021	Total FY 17 - FY 21
Borrowing - <i>Indicate annual debt service &amp; first year</i>							0.00
Cash		6,000,000.00					6,000,000.00
Revenue Bonds- <i>Indicate source of revenue</i>							0.00
Grant							0.00
Other							0.00
<b>Totals</b>		6,000,000.00	0.00	0.00	0.00	0.00	6,000,000.00

Expenditures (all figures in \$)	Prospective Vendor(s) (if known)	FY2017	FY2018	FY2019	FY2020	FY2021	Total FY 17 - FY 21
Engineering & Planning (10% of project costs)							0.00
Land Acquisition (estimate \$15k per acre)							0.00
Construction		6,000,000.00					6,000,000.00
Equipment							0.00
Other							0.00
<b>Totals</b>		6,000,000.00	0.00	0.00	0.00	0.00	6,000,000.00

For Office Use Only:	
County Administrator Recommendation:	
Planning Commission Recommendation:	
	Department Head Signature

COUNTY OF FLUVANNA, VA  
 FY 2017-2021 CAPITAL IMPROVEMENTS PLAN  
 PROJECTED OPERATIONAL COSTS AND REVENUES

**Project Title:** Design & Construct a Water & Sewer System for Zion Crossroads Development Area

**Instructions:** Enter the anticipated additional operational costs for the project beginning with the projected year of completion. If additional staff will be needed, indicate the number of positions planned. Also enter any anticipated operational revenue for the projected project.

Additional Anticipated Operational Expenses		FY2017	FY2018	FY2019	FY2020	FY2021	Total FY 17 - FY 21
Additional Staff Salary							0.00
VRS	10.58%						0.00
FICA	7.65%						0.00
Group Life	1.19%						0.00
Health Insurance							0.00
Worker's Comp							0.00
Vehicle							0.00
Vehicle Insurance							0.00
Utilities							0.00
Furniture and Fixtures							0.00
Equipment							0.00
Contractual Costs							0.00
Other			125,000.00	250,000.00	250,000.00	250,000.00	875,000.00
							0.00
<b>Total Operational Costs</b>		0.00	125,000.00	250,000.00	250,000.00	250,000.00	875,000.00
<b>Total Anticipated Operational Revenues</b>							0.00

**How does this project relate to or address the future goals outlined in the Comprehensive Plan? Be Specific in description and reference comp plan chapter.**

Chapter 4 of the County's Comprehensive Plan (Infrastructure) includes the following in its "Vision" Section: "Water and sewer infrastructure is critical to the long-term viability of communities in terms of cost-effectiveness and efficiency."

This project is the first step in providing public water and sewer service to one of the largest of the County's planned areas for economic growth, and as such, it comports quite well with the goals of the County's Comprehensive plan.



**Project Title:**

Design & Construct a Water & Sewer System for Zion Crossroads Development Area

**Additional Narrative Description or Special Explanations:**



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# COUNTY OF FLUVANNA

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*"Responsive & Responsible Government"*

P.O. Box 540 Palmyra, VA 22963 (434) 591-1910 FAX (434) 591-1911 [www.co.fluvanna.va.us](http://www.co.fluvanna.va.us)

## STAFF REPORT

**To:** Fluvanna County Planning Commission  
**Case Number:** SUP 15:07  
**Tax Map:** Tax Map 18, Section A, Parcel 12

**From:** Steve Tugwell  
**District:** Cunningham  
**Date:** November 16, 2015

**General Information:** This request is to be heard by the Planning Commission on Wednesday, November 16, 2015 at 7:00 p.m. in the Circuit Court Room in the Courts Building.

**Owner/Applicant:** Richard T. Harry

**Representative:** Raymond Goffin

**Requested Action:** Request for a special use permit to allow for an outdoor recreational facility and small restaurant with respect to 46.02 acres of Tax Map 18, Section A, Parcel 12. The applicant is proposing to operate an outdoor recreational facility. (Attachment A)

**Location:** The affected property is located on the northern side of Route 619 (Ruritan Lake Road), approximately one-half mile northwest of its intersection with Route 660 (Sclaters Ford Road). (Attachment B)

**Existing Zoning:** A-1, Agricultural, General (Attachment C)

**Planning Area:** Rural Residential Planning Area

**Existing Land Use:** Vacant

**Adjacent Land Use:** The surrounding parcels are zoned A-1

**Zoning History:** None

## **Comprehensive Plan:**

### **Land Use:**

This property is located in the Rural Residential Planning Area. Rural residential areas are closely linked to the rural cluster community element and generally surround the six identified growth areas, or community planning areas. Rural residential areas are intended to conserve open space by clustering development, or developing on larger lots. Regardless of the type of development, the project should achieve the goal of preserving as much open space, and thus rural character, as possible. The open space should be strategically located to preserve viewsheds from roads and existing developments, and to be used by the residents of the planned community. Open spaces in subdivisions should be available to the community, be available for rural uses such as farming, wildlife, and recreation, and minimize or exclude utilities such as wells and septic fields or reserve areas. Streets are neighborhood streets within developments, or rural roads. Commercial and multifamily developments are limited, neighborhood-oriented, and smaller in scale. While this is a predominately residential area, the building on this parcel has been used for commercial.

## **ECONOMIC DEVELOPMENT**

Goal number two under the Course of Action section in the Economic Development chapter states that the county wants to utilize the county's natural resources, culture, and historic and recreational sites to capitalize on heritage, ecological, and recreational tourism, as well as attracting visitors.

Goal number three says to support the development of local economies, locally owned businesses, and entrepreneurial opportunities; particularly those that are of rural character and will require little provision of infrastructure.

### **Analysis:**

The applicant is proposing to have an outdoor recreation facility that will consist of a running track, pavilion, community garden area, green house, and a small restaurant. Outdoor recreation facilities are allowed by special use permit in the A-1 zoning district, and are defined in the ordinance as, *“predominately participant uses conducted in open or partially enclosed or screened facilities, but not including public facilities. Typical uses include, but are not limited to, golf courses, driving ranges, tennis courts, motorized cart and motorcycle tracks, paintball facilities, swimming pools, and athletic ball fields.”* The applicant has stated that he intends on opening up this facility to paying patrons, for which the fees are yet to be determined, but may be based on garden plots and seasons of the year. Mr. Goffin has stated that he intends on forming a committee to determine a fee schedule and by-law structure for the facility.

According to the application, the grounds will facilitate care-takers quarters, equipment shed for gas-diesel oil running machinery, equipment area, small pavilion shelter and gazebo, an outdoor trail, picnic areas, and a small café that will serve food and refreshments. As part of this application, Mr. Goffin is also requesting approval of a small restaurant, which is allowed by special use permit in the A-1 zoning district and defined as, *“an establishment engaged in the preparation of food and beverages containing no more than 2,000 gross square feet and typically characterized by table service to customers.”* If approved, the site would be developed

in phases, and would require site plan approval. Primary access to this facility will be from Route 53 (Thomas Jefferson Parkway), and VDOT and the Health Department will also be required to approve the site plan. (Attachment D)

**First, the proposed use should not tend to change the character and established pattern of the area or community.**

The proposed location for the outdoor recreational facility is a 46 acre parcel situated on the north side of Route 619 (Ruritan Lake Road). The applicant has stated in his application that he intends on maintaining a 50-foot buffer on the northern side of the property, and he plans on building a six (6) foot tall fence adjacent to the AFD (Agricultural & Forestal) district property located to the north. The proposed use and type of improvements may be compared to what would be seen in a park-like setting, or an agricultural operation with farm-related buildings, which is consistent with the rural character of the community.

**Second, the proposed use should be compatible with the uses permitted by-right in that zoning district and shall not adversely affect the use/or value of neighboring property.**

Outdoor recreation is allowed by special use permit in the A-1 zoning district. The nearest dwelling is approximately 360 feet away from the western property line, and the applicant's sketch plan shows a proposed 50-75 foot buffer along this property line. The proposed outdoor recreation facility could be compared to a public park, which is a by-right use in the A-1 zoning district. The small restaurant portion of this request will be limited to 2,000 square feet or less, as defined in the zoning ordinance.

**Neighborhood Meeting:**

There were approximately five (5) attendees at the September 9, 2015 Neighborhood meeting.

**Technical Review Committee:**

At the September 10, 2015 Technical Review Committee meeting, the following comments were generated:

1. VDOT stated the following:
  - Provide an entrance analysis for the proposed Outdoor Recreation Facility along with the recommended road improvements to support the proposed development, VDOT will review the entrance analysis and provide comments if applicable. Base traffic volumes for the study off of VDOT's 2014 Traffic Data (6,900 AADT) and use International Traffic Engineers Trip Generation, 9<sup>th</sup> Edition.
  - Rte. 53 is a Major Collector and this section of road (6,900 AADT) has a posted speed limit of 55 mph which requires a minimum of 610 ft. of Intersection Sight Distance for a standard commercial entrance. Based on the location of the existing entrance for the 50 ft. R/W to TMP 18-A-12 it does not appear that the 610 ft. of Intersection Sight Distance can be obtained at this location as the Rte. 53 horizontal and vertical road geometry to the

north will not allow it. If the proposed traffic generation as per ITE 9<sup>th</sup> Edition qualifies for a low volume commercial entrance (maximum 50 VPD = 25 vehicles in and 25 vehicles out), then a minimum of 495 ft. of Stopping Sight Distance is required. In order to achieve 495 ft. of Stopping Sight Distance at this location, a sight easement and clearing will be required to the south of the existing entrance and a sight easement may be required to the north as well. Graphically demonstrate (horizontally and vertically) that the proposed commercial entrance provides the minimum Intersection Sight Distance or Stopping Sight Distance as applicable (height of eye = 3.5 ft., height of object = 3.5 ft. and 14.5 ft. off edge of pavement). The existing entrance road is gravel and steep, the entrance will need to be improved and paved to serve the Outdoor Recreation facility.

- Rte. 619 is a Rural Minor Collector and this section of road (1,400 AADT) has a posted speed limit of 45 mph which requires a minimum of 500 ft. of Intersection Sight Distance for a standard commercial entrance or a minimum of 360 ft. of Stopping Sight Distance for a low volume commercial entrance. I made a site visit, however, I was unable to determine where the entrance off Rte. 619 is located that connects to the "existing road" shown on the sketch site plan.

2. CVEC had no comments.
3. The Fire Chief stated that
  - (1) Roadway to be 18' or wider for apparatus ingress and egress.
  - (2) Roadway turns to be reasonable. i.e. no 90 degree turns.
  - (3) Cul-de-sacs to be 100' diameter.
  - (4) Limbs and/or obstructions to be removed above roadway a minimum of 14' to allow apparatus access. i.e. Apparatus are 10' 6" tall.
4. Health Dept. stated that Mr. Goffin has been in contact with the health department to determine what is needed to meet our requirements and has submitted preliminary soil studies for what he is proposing. His submittal was reviewed and found to be adequate.

(Attachment E)

**Conclusion:**

The Planning Commission should consider any potential adverse impacts, such as traffic entering and exiting the property, noise, or dust.

### **Planning Commission:**

The Planning Commission discussed this request at their October 28, 2015 meeting. The Planning Commission had questions with regards to the 50-foot right-of-way leading to the subject parcel, (Attachment F).

The Planning Commission also wanted to know what VDOT may require for an entrance at Route 53. Staff spoke with Mark Wood at VDOT on 11-12-2015 with regards to the entrance into the subject parcel on Route 53, and Mr. Woods stated the following:

- Based on field observations, it appears the applicant doesn't have adequate sight-distance at the existing entrance location, and it needs to be surveyed for 500' in each direction;
- With the speed limit as posted, the applicant will need 500' of sight-distance at the entrance location in each direction along Route 53.

The Planning Commission also wanted to know what the zoning implications are for caretaker facilities and/or a temporary night-watchman. Mr. Stewart made the zoning determination that:

- Based on the current zoning of A-1, an accessory dwelling unit may be permitted if there is a primary dwelling unit on the property. Each dwelling unit may be permitted provided the structures are in compliance with the building setbacks for this district;
- Mr. Stewart also determined that if a caretakers dwelling unit is proposed on this property, then the type and placement of structure will need to be shown on the site development plan so that planning staff can evaluate it for zoning;
- An individual posted at a "guard-shack" would be allowed as an accessory to the primary use during normal operating hours.

The Planning Commission voted 4-0 to defer this request until their November 16, 2015 meeting.

### **Recommended Conditions:**

If approved Staff recommends the following conditions:

1. Prior to development of the site, a site development plan that meets the requirements of the Fluvanna County Zoning Ordinance, must be submitted for review and approval.
2. The site must meet all Virginia Department of Transportation requirements.
3. The site must meet the requirements set forth by the Virginia Department of Health.
4. The property shall be maintained in a neat and orderly manner so that the visual appearance from the road and adjacent properties is acceptable to County officials.
5. Hours of operation shall be Monday through Sunday 6:00 a.m. to 10:30 p.m. May 1<sup>st</sup> through September 30<sup>th</sup>, and 8:00 a.m. to 10:00 p.m. October 1<sup>st</sup> through April 30<sup>th</sup>.

6. The Board of Supervisors, or its representative, reserves the right to inspect the business for compliance with these conditions at any time.
7. Any noise generated by the activity on this site shall be limited to the maximum decibel level allowed by Sec. 15.1-9 A. d. of the County Code.
8. Under Sec. 22-17-4 F (2) of the Fluvanna County Code, the Board of Supervisors has the authority to revoke a Special Use Permit if the property owner has substantially breached the conditions of the Special Use Permit.

**Suggested Motion:**

I move that the Planning Commission recommend approval/denial of SUP 15:07, a special use permit request to allow for an outdoor recreational facility and small restaurant with respect to 46.02 acres of Tax Map 18, Section A, Parcel 12, [if approved] subject to the eight (8) conditions listed in the staff report.

**Attachments:**

- A – Application & APO Letter, written permission from owner to apply for a SUP
- B – Aerial Map
- C - Zoning Map
- D – Applicant’s sketch
- E – TRC comment letter and emails
- F – Applicant provided deed book references

Copy:

Owner – R.T. Harry, 467 Martin Kings Road, Charlottesville, VA 22902

Applicant – Raymond Goffin via email – [raymondgoffin@yahoo.com](mailto:raymondgoffin@yahoo.com)

File



COMMONWEALTH OF VIRGINIA  
COUNTY OF FLUVANNA

Application for Special Use Permit (SUP)

Received

AUG 28 2015

Planning Dept.

Owner of Record: Raymond Goffin Applicant of Record: SAME  
 E911 Address: 3306 Winchester Ave E911 Address: \_\_\_\_\_  
 Phone: 304 279 7362 Fax: Martinbu-g WV 25405 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 Email: RaymondGoffin@yahoo.com Email: \_\_\_\_\_  
 Representative: \_\_\_\_\_  
 E911 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 Email: \_\_\_\_\_  
 Note: If applicant is anyone other than the owner of record, written authorization by the owner designating the applicant as the authorized agent for all matters concerning the request shall be filed with this application.  
 Is property in Agricultural Forestal District?  No  Yes  
 If Yes, what district: N/A  
 Tax Map and Parcel(s): 18-A-12 Deed Book Reference: DB 261-773  
 Acreage: 46.02 Zoning: \_\_\_\_\_ Deed Restrictions?  No  Yes (Attach copy)  
 Request for a SUP in order to: \_\_\_\_\_ Proposed use of Property: \_\_\_\_\_

\*Two copies of a plan must be submitted, showing size and location of the lot, dimensions and location of the proposed building, structure or proposed use, and the dimensions and location of the existing structures on the lot.

By signing this application, the undersigned owner/applicant authorizes entry onto the property by County Employees, the Planning Commission, and the board of Supervisors during the normal discharge of their duties in regard to this request and acknowledges that county employees will make regular inspections of the site.

Date: 8-28-2015 Signature of Owner/Applicant: Raymond G. Goffin  
 Subscribed and sworn to before me this 28<sup>th</sup> day of August, 2015  
 Notary Public: Deidre Trinette Greasy Register # 7618135  
 My commission expires: 03/31/2018  
 Certification: Date: \_\_\_\_\_  
 Zoning Administrator: \_\_\_\_\_



All plats must be folded prior to submission to the Planning Department for review. Rolled plats will not be accepted.

OFFICE USE ONLY			
Date Received: <u>8/28/15</u>	Pre-Application Meeting: <input checked="" type="checkbox"/>	PH Sign Deposit Received: <input checked="" type="checkbox"/>	Application #: SUP <u>15-007</u>
\$800.00 fee plus mailing costs paid:		Mailing Costs: \$20.00 Adjacent Property Owner (APO) after 1st 15, Certified Mail	
Amendment of Condition: \$400.00 fee plus mailing costs paid:			
Telecommunications Tower \$1,500.00 fee plus mailing costs paid:		\$5,500 w/Consultant Review paid:	
Election District: <u>Cunningham</u>	Planning Area: <u>Rural Residential</u>		
Public Hearings			
Planning Commission		Board of Supervisors	
Advertisement Dates: <u>Oct 15<sup>th</sup> &amp; 22<sup>nd</sup> (out)</u>	Advertisement Dates: <u>Nov 5<sup>th</sup> &amp; 12<sup>th</sup> (out)</u>		
APO Notification: <u>Oct 17<sup>th</sup></u>	APO Notification: <u>Nov 2<sup>nd</sup></u>		
Date of Hearing: <u>Oct 28<sup>th</sup></u>	Date of Hearing: <u>Nov 18<sup>th</sup></u>		
Decision: _____	Decision: _____		



Received

AUG 28 2015

COMMONWEALTH OF VIRGINIA  
COUNTY OF FLUVANNA **Planning Dept.**  
**Public Hearing Sign Deposit**

Name: Raymond Goffin  
Address: 3306 Winchester Ave  
City: Martinsburg WV 25405  
State: West Virginia Zip Code: 25405

I hereby certify that the sign issued to me is my responsibility while in my possession.  
Incidents which cause damage, theft, or destruction of these signs will cause a partial or full  
forfeiture of this deposit.

Raymond Goffin 8-28-2015  
Applicant Signature Date

\*Number of signs depends on number of roadways property adjoins.

OFFICE USE ONLY	
Application #: BZA _____ : CPA _____ : SUP <u>B : 001</u> ZMP _____ : ZTA _____ :	
\$90 deposit paid per sign*: <u>✓ #1036</u>	Approximate date to be returned: <u>Nov 19<sup>th</sup> 2015</u>

Describe briefly the **improvements** proposed. State whether new buildings are to be constructed, **existing** buildings are to be used, or additions made to existing buildings.

Community Garden area, Walking track, Meeting room and supplies, Office, care taker quarters, Green houses, Pavilion shelter-sitting area, Equipment shed for Gas-diesel-oil running machines, equipment area to fix and work shop, small pavilion shelter and Gazebo, outdoor trail, round about with flag pole, tables for picnic area, sheds, small under two thousand square foot Café food. Bathroom-sink area. Therapeutic office

**NECESSITY OF USE:** Describe the reason for the requested change.

Proposed site has been cleared. There are no buildings existing at this forty six acre site. There is a well with a concrete cover twelve by twelve foot. The site will propose a community garden area and walking track for around the year use.

**PROTECTION OF ADJOINING PROPERTY:** Describe the effects of the proposed use on adjacent property and the surrounding neighborhood. What protection will be offered adjoining property owners?

Property corner are stacked and well marked. A 50 foot buffer will be used on the North end of the property. A 6 foot high fence will be installed along the AG forestall district property. A buffer zone of 50-75 foot of no building structures or any permanent item, except sign for hazard or information. A 6 foot fence may eventually be installed at the property line.

**ENHANCEMENT OF COUNTY:** Why does the applicant believe that this requested change would be advantageous to the County of Fluvanna? (Please substantiate with facts.)

Community gardens and walking track increase a sense of community ownership and stewardship and foster the development of a community identity and spirit. Community gardens offer a unique cultural exchange over generations and offer opportunities to teach youth the skills needed for the growth of food, from planning, working, practical math skills involved, the importance of community involvement, stewardship issues of environmental sustainability to possible job and life skills. This plan offers a healthy, inexpensive activity for generations to bring them closer to nature and may donate many pounds of fresh produce to food pantries to help alleviate hunger. Exposure to green space reduces stress and increases a sense of wellness and belonging.

**PLAN:** Furnish plot plan showing boundaries and dimensions of property, width of abutting right-of-ways, location and size of buildings on the site, roadways, walks, off-street parking and loading space, landscaping, etc. Architect's sketches showing elevations of proposed buildings and complete plans are desirable and may be required with the application. Remarks:

Community Garden area as need, up to eighteen acres. Pavilion shelter forty by eighty foot. Gas, diesel, oil equipment storage forty by sixty foot. Office, garage and care taker facility eighty by one hundred foot. Green house dome fifty by fifty or forty by ninety foot. Water pump shed for well water pump twenty five by twenty. Walking track one hundred sixty by two hundred twenty

# Memorandum

DATE: October 16, 2015  
RE: Planning Commission APO Letter  
TO: Jason Stewart  
FROM: Deidre Creasy

Please be advised the attached letter went out to the attached list of Adjacent Property Owners for the October 28, 2015 Planning Commission Meeting.



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## COUNTY OF FLUVANNA

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### NOTICE OF PUBLIC HEARING

October 5, 2015

«Owner»

«Address»

«City\_State» «Zip\_Code»

TMP# «TMP»

#### **Re: Public Hearing on SUP 15:07**

Dear «Owner»:

This letter is to notify you that the Fluvanna County Planning Commission will hold a public hearing on the above referenced item on **Wednesday, October 28, 2015 at 7:00 PM** in the Circuit Court Room at the Fluvanna County Courts Building in Palmyra, VA. The request is described as follows:

**SUP 15:07– Raymond Goffin** - A request for a special use permit to operate an outdoor recreation facility with respect to 46.02 acres of Tax Map 18, Section A, Parcel 12. The property is currently zoned A-1 (Agricultural, General) and is located on the northern side of State Route 619 (Ruritan Lake Road) approximately one-half mile northwest of its intersection with Sclaters Ford Road. The property is located within the Cunningham Election District and is within the Rural Residential Planning Area.

The applicant or applicant’s representative must be present at the Board of Supervisors meeting. The tentative agenda and staff report will also be available for review by the public in the Fluvanna County Planning and Community Development Department during working hours (8:00 a.m. – 5:00 p.m., Monday through Friday). If you have any questions, please feel free to contact me at 434–591–1910.

Sincerely,

Jason Stewart, Planning and Zoning Administrator

SUP 15:07 Goffin

TMP		Name	Address	City, State	Zip
18	A	11 Elizabeth Sadler Et. Al	3687 Thomas Jefferson PKWY	Palmyra, Va	22963
18	A	12 Richard & Donna Harry	467 Martin Kings Rd	Charlottesville, Va	22902
18	A	13 james Musselman	3607 Thomas Jefferson PKWY	Palmyra, Va	22963
17	4	5 Jeanie Stafford	3033 Oakleigh Cove	Germantown, Tn	38138
18	A	14 David Wood	3383 Thomas Jefferson PKWY	Palmyra, Va	22963
17	4	5A Erika Eubanks	4745 Ruritan Lake Rd	Palmyra, Va	22963
17	4	6 Gwendolyn Sprouse	6 Cedar Hill Rd	Palmyra, Va	22963
29	A	5 David Wood	3383 Thomas Jefferson PKWY	Palmyra, Va	22963

Received

OCT 22 2015

Planning Dept.

RT HARRY

467 MARTIN KINGS ROAD  
22902  
CHARLOTTESVILLE, VA. ~~22901~~

27 AUGUST 2015

TO Whom IT may CONCERN:

RAYMOND GOFFIN IS CURRENTLY UNDER  
CONTRACT TO BUY 46 ACRES AT CUNNINGHAM  
He HAS THE RIGHT TO APPLY FOR A SUP  
PERMIT AND DO WHAT IS NECESSARY TO  
EXPEDITE HIS PLANS FOR THE PROPERTY.  
ONCE THE PERMIT IS GRANTED MR. GOFFIN  
WILL GO TO CLOSING.

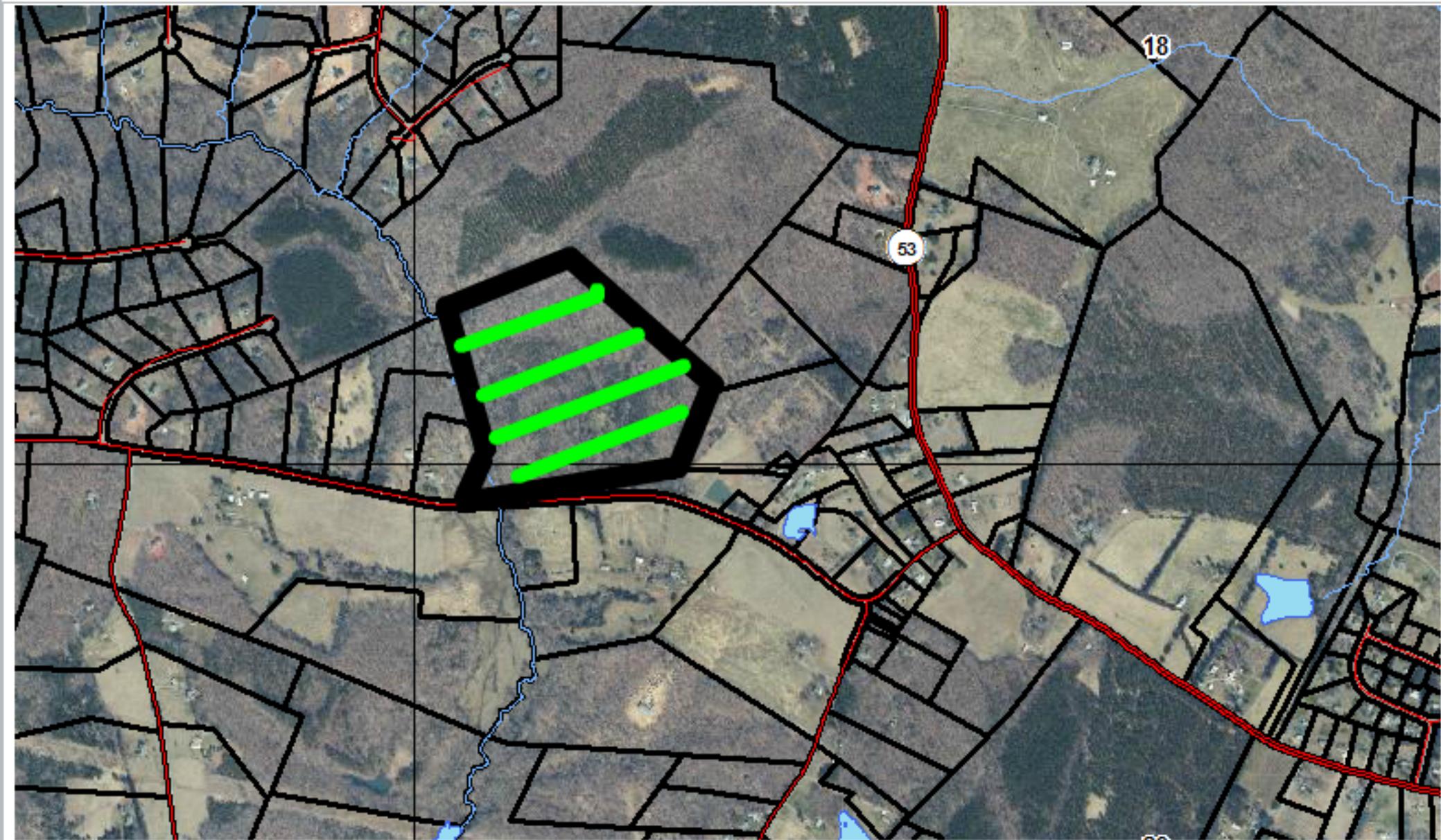
RT Harry  
Denna Harry

434-589-4710

804-382-3616



SUP 15:07 Outdoor Recreation Facility



Scale: 1:18055.954822

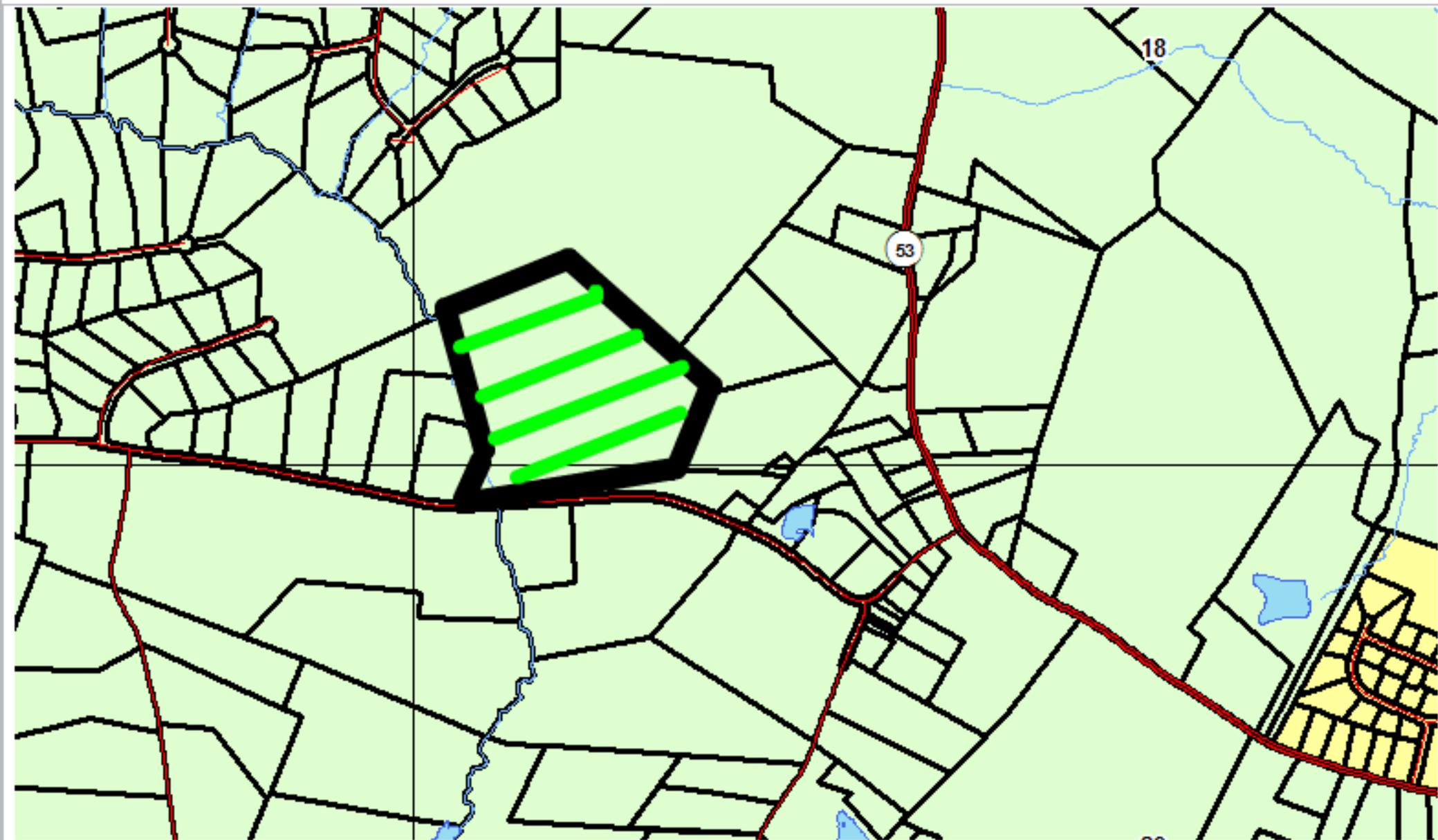
Date: 10/22/2015

Printed By:

Under Virginia State Law, these real estate assessment records are public information. Display of this property information on the internet is specifically authorized by the Code of Virginia §58.1-3122.2(as amended).



SUP 15:07 Outdoor Recreation Facility



Scale: 1:18055.954822

Date: 10/22/2015

Printed By:

Under Virginia State Law, these real estate assessment records are public information. Display of this property information on the internet is specifically authorized by the Code of Virginia §58.1-3122.2(as amended).





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September 15, 2015

Raymond Goffin  
3306 Winchester Avenue  
Martinsburg, WV 25405

Delivered via email

**Re: SUP 15:07 Raymond Goffin special use permit request for an outdoor recreational facility and small restaurant**

**Tax Map:** 18, Section A, Parcel 12

Dear Mr. Goffin:

The following comments are the result of the Technical Review Committee meeting that was held on Thursday, September 10, 2015.

1. VDOT stated the following:

-Provide an entrance analysis for the proposed Outdoor Recreation Facility along with the recommended road improvements to support the proposed development, VDOT will review the entrance analysis and provide comments if applicable. Base traffic volumes for the study off of VDOT's 2014 Traffic Data (6,900 AADT) and use International Traffic Engineers Trip Generation, 9<sup>th</sup> Edition.

-Rte. 53 is a Major Collector and this section of road (6,900 AADT) has a posted speed limit of 55 mph which requires a minimum of 610 ft. of Intersection Sight Distance for a standard commercial entrance. Based on the location of the existing entrance for the 50 ft. R/W to TMP 18-A-12 it does not appear that the 610 ft. of Intersection Sight Distance can be obtained at this location as the Rte. 53 horizontal and vertical road geometry to the north will not allow it. If the proposed traffic generation as per ITE 9<sup>th</sup> Edition qualifies for a low volume commercial entrance (maximum 50 VPD = 25 vehicles in and 25 vehicles out), then a minimum of 495 ft. of Stopping Sight Distance is required. In order to achieve 495 ft. of Stopping Sight Distance at this location, a sight easement and clearing will be required to the south of the existing entrance and a sight easement may be required to the north as well. Graphically demonstrate (horizontally and vertically) that the proposed commercial entrance provides the minimum Intersection Sight Distance or Stopping Sight Distance as applicable (height of eye = 3.5 ft., height of object = 3.5 ft. and 14.5 ft. off edge of pavement). The existing entrance road is gravel and steep, the entrance will need to be improved and paved to serve the Outdoor Recreation facility.

- Rte. 619 is a Rural Minor Collector and this section of road (1,400 AADT) has a posted speed limit of 45 mph which requires a minimum of 500 ft. of Intersection Sight Distance for a standard commercial entrance or a minimum of 360 ft. of Stopping Sight Distance for a low volume commercial entrance. I made a site visit, however, I was unable to determine where the entrance off Rte. 619 is located that connects to the "existing road" shown on the sketch site plan.

2. CVEC had no comments.

3. The Fire Chief stated that

- (1) Roadway to be 18' or wider for apparatus ingress and egress.
- (2) Roadway turns to be reasonable. i.e. no 90 degree turns.
- (3) Cul-de-sacs to be 100' diameter.
- (4) Limbs and/or obstructions to be removed above roadway a minimum of 14' to allow apparatus access. i.e. Apparatus are 10' 6" tall.

4. Health Dept. stated that Mr. Goffin has been in contact with the health department to determine what is needed to meet our requirements and has submitted preliminary soil studies for what he is proposing. His submittal was reviewed and found to be adequate.

The Planning Commission will have a meeting to discuss this item at their Wednesday, October 28, 2015 meeting. Your attendance is required at this meeting.

If you have any questions or need additional information, please contact me at 434-591-1910.



Sincerely,

Steve Tugwell  
Senior Planner  
Dept. of Planning & Community Development

Copy:

Owner – R.T. Harry, 467 Martin Kings Road, Charlottesville, VA 22902

Applicant – Raymond Goffin via email – [raymondgoffin@yahoo.com](mailto:raymondgoffin@yahoo.com)

File

HT Harry sold property  
to James Musselman

308 440

12.9.96

3811

THIS DEED, made this 7th day of November, 1996, by and between MATTIE P. BUNCH, widow, and ALICE P. CARVER (formerly Alice P. Gibson), widow, hereinafter referred to as "Grantors", and RICHARD T. HARRY and DONNA M. HARRY, husband and wife, hereinafter referred to as "Grantees", whose mailing address is Route 2, Box 116, Palmyra, Virginia 22963.

WITNESSETH:

That for and in consideration of the sum of SIXTY THOUSAND AND NO/100THS DOLLARS (\$60,000.00), of which Five Thousand and No/100ths Dollars (\$5,000.00) is cash in hand paid, the receipt of which Grantors hereby acknowledge, and the balance of which is evidenced by Grantees' two (2) deferred purchase money real estate bonds secured by a deferred purchase money deed of trust on the property conveyed hereby, Grantors do hereby GRANT, BARGAIN, SELL AND CONVEY, with GENERAL WARRANTY and ENGLISH COVENANTS OF TITLE, unto the said Richard T. Harry and Donna M. Harry, husband and wife, as tenants by the entirety with full rights of survivorship as at common law, and not as tenants in common, the following described real property situated in Fluvanna County, Virginia:

All those two certain tracts or parcels of land, with improvements thereon, lying and being situate in the Cunningham Magisterial District of Fluvanna County, Virginia, containing 19 2/3 acres, more or less, this conveyance being made in gross and not by the acre, adjoining the Church property, the lands formerly

RETURN TO: Frank J. Gallo, Esquire  
106 Crofton Place  
Suite 1, Box 1  
Palmyra, VA 22963  
11-9-96 (Pds)

See Confirmation and Plat  
recorded in Deed Book 312, page 71.

Book 142  
Page 52

owned by George Wood, and others, and being the same property conveyed to Alice P. Gibson (now Alice P. Carver), Mattie P. Bunch and Robert Hansford Pace by deed of J.F. Pace, dated May 1, 1967, of record in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia in Deed Book 70, page 375, to which deed reference is here made for a more particular description of the property conveyed hereby. By deed dated December 9, 1980, of record in said Clerk's Office in Deed Book 142, page 52, Robert Hansford Pace, et ux, conveyed his interest in the subject property, together with the hereinafter described right of way, to Mattie P. Bunch.

As a part of this conveyance, Mattie P. Bunch does GRANT, BARGAIN, SELL and CONVEY, with GENERAL WARRANTY and ENGLISH COVENANTS OF TITLE, unto the said Grantees, as tenants by the entirety with full rights of survivorship as at common law, and not as tenants in common, a non-exclusive fifty foot right of way for the purpose of ingress and egress to and from the property conveyed hereby and State Route 53, as shown on plat of William S. Roudabush, Inc., dated December 5, 1980, which plat is attached to and recorded with the aforesaid deed of Robert Hansford Pace, et ux, dated December 9, 1980 and to which deed and plat reference is here made for a more particular description of said right of way.

The property is conveyed subject to all restrictions, covenants, easements and other matters which constitute constructive notice in the chain of title which have not lapsed, expired or otherwise ceased to be effective by the terms thereof or the passage of time.

WITNESS the following signatures and seals:

Mattie P. Bunch (SEAL)  
Mattie P. Bunch

Alice P. Carver (SEAL)  
Alice P. Carver

STATE OF VIRGINIA  
CITY/COUNTY OF Charlotteville, to-wit:

The foregoing deed, dated November 7, 1996, was acknowledged before me by Mattie P. Bunch this 12<sup>th</sup> day of November, 1996.

My commission expires December 31, 1999.

David B. Garland  
Notary Public

STATE OF VIRGINIA  
CITY/COUNTY OF Albemarle, to-wit:

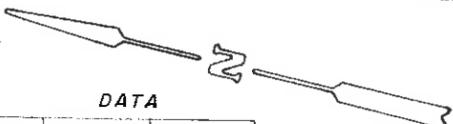
The foregoing deed, dated November 7, 1996, was acknowledged before me by Alice P. Carver this 13<sup>th</sup> day of November, 1996.

My commission expires 7-31-97.

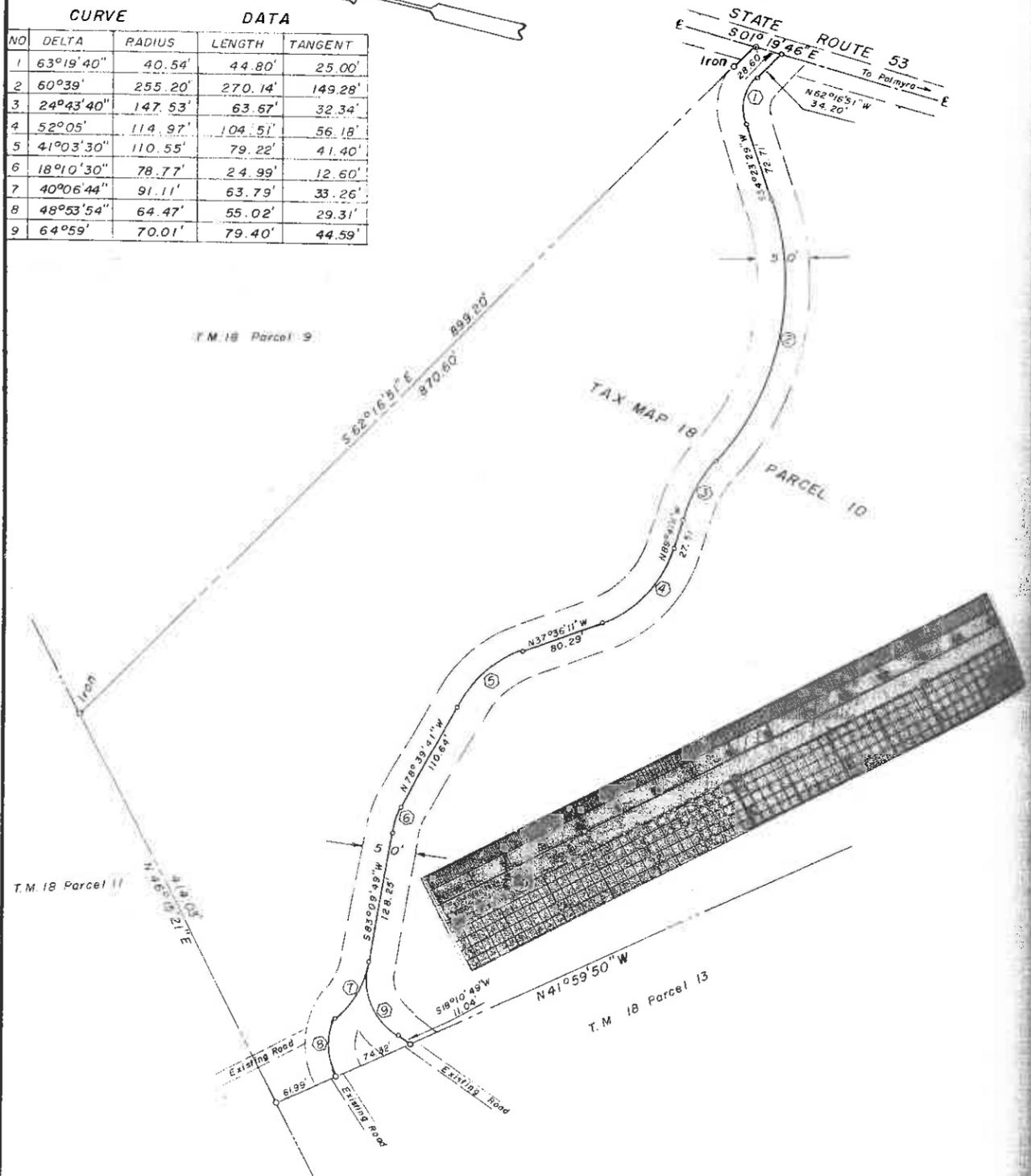
David W. Garrison  
Notary Public

Prepared by:  
David B. Garland, Attorney at Law  
405 Carrsbrook Drive  
Charlottesville, Virginia 22901

VIRGINIA: CLERK'S OFFICE OF THE CIRCUIT COURT OF FLUVANNA COUNTY  
St. R. Tax 9000 The foregoing instrument with acknowledgment  
Co. R. Tax 3000 was admitted to record on Nov. 14, 1996  
Transfer 100 at 11:29 A.M. in D. 808 Page(s) 440-442  
Clerk 1600 Recording costs paid as shown.  
Grantor Tax 5000  
Total \$19700 Donna Y. Smith, Deputy, Clerk



CURVE		DATA		
NO	DELTA	RADIUS	LENGTH	TANGENT
1	63°19'40"	40.54'	44.80'	25.00'
2	60°39'	255.20'	270.14'	149.28'
3	24°43'40"	147.53'	63.67'	32.34'
4	52°05'	114.97'	104.51'	56.18'
5	41°03'30"	110.55'	79.22'	41.40'
6	18°10'30"	78.77'	24.99'	12.60'
7	40°06'44"	91.11'	63.79'	33.26'
8	48°53'54"	64.47'	55.02'	29.31'
9	64°59'	70.01'	79.40'	44.59'



PLAT SHOWING  
A 50' RIGHT OF WAY  
ACROSS PARCEL 10 TAX MAP 18  
PROPERTY OF ROBERT PACE  
AT CUNNINGHAM  
FLUVANNA COUNTY, VIRGINIA

VIRGINIA: CLERK'S OFFICE OF THE CIRCUIT COURT OF FLUVANNA COUNTY.  
St.R. Tax 15.00 The foregoing instrument with acknowledgment  
Co.R. Tax 5.00 was admitted to record on Dec. 17, 1980,  
Transfer 1.00 at 11:50 A.M. in D.B. 142 Page(s) 52-54.  
Clerk 12.00 Recording costs paid as shown.  
Grantor Tax 10.00  
Total \$ 43.00 Teste: *Richard J. [Signature]* Clerk.



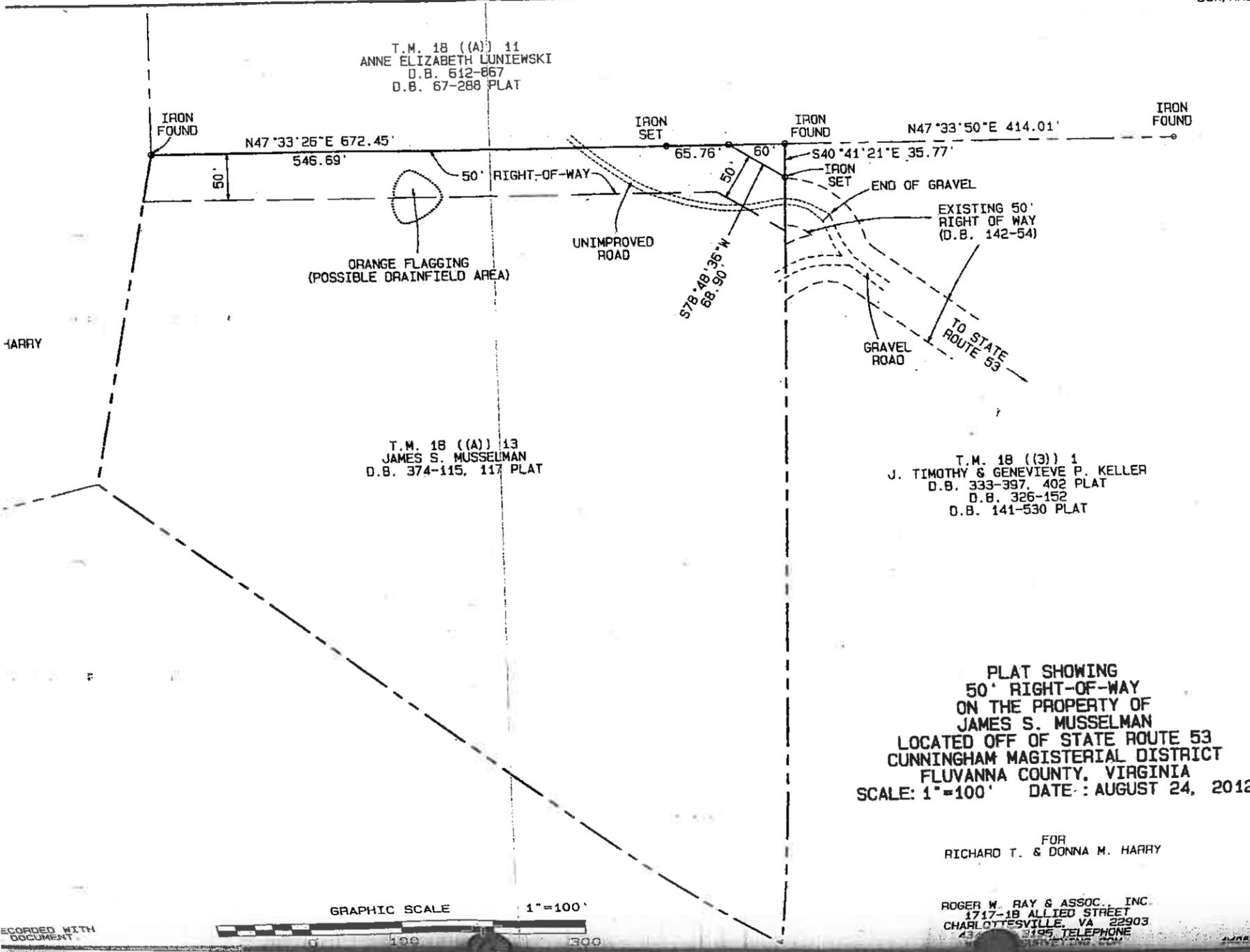
**WILLIAM S. ROUDABUSH, INC.**  
A Professional Corporation  
CERTIFIED LAND SURVEYORS  
Charlottesville Virginia

SCALE: 1"=100' DATE: DEC. 5, 1980

Southern Photo Print & Supply Co., 300 #DF3

FILE NO. 620

1379  
 NATIONAL BANK AND TRUST COMPANY  
 RETURN TO:



PLAT SHOWING  
 50' RIGHT-OF-WAY  
 ON THE PROPERTY OF  
 JAMES S. MUSSELMAN  
 LOCATED OFF OF STATE ROUTE 53  
 CUNNINGHAM MAGISTERIAL DISTRICT  
 FLUVANNA COUNTY, VIRGINIA  
 SCALE: 1"=100' DATE: AUGUST 24, 2012

FOR  
 RICHARD T. & DONNA M. HARRY

ROGER W. RAY & ASSOC., INC.  
 1717-1B ALLIED STREET  
 CHARLOTTESVILLE, VA 22903  
 434-3195 TELEPHONE



RECORDED WITH DOCUMENT

(540) 967-4347 - facsimile

SEEN AND OBJECTED TO ON THE GROUNDS THAT (a) the 50 foot wide right-of-way for the benefit of the Dominant Estate, created in the 1980 Pace deed, was extinguished in 1996, under the union of *seisin* doctrine, when title to both the Dominant Tenement and the Servient Tenement were united in Mr. and Mrs. Harry, as more particularly set forth in Musselman's pleadings filed herein; (b) the evidence fails to establish that the right-of-way created in the December 9, 1980 deed, DB 142, p. 052, crossed the Servient Estate, as more particularly set forth in Musselman's pleadings filed herein; (c) the Court's finding that the location of the 50 foot right-of-way easement should be as set forth in the Ray Plat of Survey is not supported by the location shown on the December 9, 1980 deed, DB 142, p. 052, or by other competent evidence.

*Peter B. Vaden*  
 Peter B. Vaden (VSB No. 31432)  
 PO Box 5045  
 Charlottesville, Virginia 22905  
 Telephone: 434-923-4044  
 Telecopier: 434-923-4045  
 Counsel for Defendant James S. Musselman

0011  
0042

110042

VIRGINIA: IN THE CIRCUIT COURT OF FLUVANNA COUNTY

RICHARD T. HARRY, et al.

v.

Case No.: 11CL40

JAMES S. MUSSELMAN, et al.

HEARING DATE: August 24, 2012  
JUDGE DESIGNATE: Frederick B. Lowe  
ATTORNEY FOR PLAINTIFFS: Richard T. Harry, Jr.  
ATTORNEY FOR DEFENDANT: Peter B. Vaden  
DESCRIPTION: Right-of-way Dispute

FINAL ORDER

This proceeding, brought by Plaintiffs Richard T. Harry, Sr. and Donna M. Harry (the "Harrys") to establish a right of way easement over the land of James S. Musselman ("Musselman") came to be heard on August 24, 2012 before the Court sitting without a jury. The Court visited the parcel in Fluvanna County which is the situs of the dispute, heard the testimony of witnesses and received exhibits into evidence. The matter was argued by counsel and the Court finds the following:

374 Book (B)  
115 Page

261 Book (A)  
773 Page

1. The court hereby recognizes and grants an express fifty (50) foot right-of-way easement for purposes of ingress and egress over and across a ten (10) acre parcel of James S. Musselman, described in these proceedings and more particularly described by Deed dated August 13, 1999, recorded in the Circuit Court of Fluvanna County in Deed Book 374, page 115, which right-of-way was originally created and set forth by Deed dated December 9, 1980, and recorded in the Clerk's Office of the Circuit Court of Fluvanna County in Deed Book 142, page 52.
2. Said fifty (50) foot right-of-way over the Musselman property is for the benefit of forty-six (46) acres, more or less, owned by Richard T. Harry, Sr. & Donna M. Harry and more particularly described by Deed dated October 6, 1993, recorded in the Clerk's Office of the Circuit Court of Fluvanna County in Deed Book 261, page 773, which said forty-six (46) acres shall be the dominant tract in regard to this fifty (50) foot right-of-way and which ten (10) acre tract owned by James S. Musselman shall be the servient tract in respect to this fifty (50) foot right-of-way.
3. The Court does hereby enjoin the Defendant James S. Musselman for interfering with the use of said easement by Richard T. Harry, Sr. & Donna M. Harry and does enjoin the Defendant, James S. Musselman from interfering with Richard T.

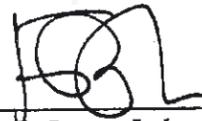
0011  
0043

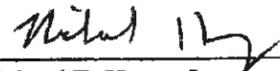
110043

Harry, Sr. and Donna M. Harry's right of ingress and egress from their forty-six (46) acre parcel of land over and across the ten (10) acre Musselman property.

4. The Court hereby Orders and Decrees that the placement of the aforementioned express fifty (50) foot easement is to be located generally along the Northern Boundary of the Musselman property as more particularly described on plat of survey, by Roger W. Ray dated August 24, 2012 and recorded herewith. *attached hereto and recorded herewith.*
5. Any damage to drain field indicated by plat of survey which is caused by use of road will be subject to being repaired.
6. Musselman and his successors in interest shall have no responsibility for maintenance of any roadway over the fifty (50) foot right-of-way.
7. Each party shall bear its own attorney's fees and expenses incurred in the prosecution of this action.
8. ~~The Court Orders this order together with the Plat of Survey to be recorded in Deed Book \_\_\_\_\_ page \_\_\_\_\_ of this Circuit Court.~~

2/21/13  
DATE ORDER ENTERED

ENTER:   
Frederick B. Lowe, Judge Designate

  
Richard T. Harry, Jr.  
Counsel for Richard T. & Donna M. Harry  
105 Elm Avenue, Suite 105  
Post Office Box 2141  
Louisa, VA 23093  
(540) 967-4333  
(540) 967-4347 - facsimile  
VSB# 44143

SEEN and \_\_\_\_\_:

Peter B. Vaden (VSB No.: 31432)  
Counsel for James S. Musselman  
PO Box 5045  
Charlottesville, Virginia 22905-5054  
Ph: 434-923-4044  
Fax: 434-923-4045

A

261 773

3-2-94

442

THIS DEED, made this 6th day of October, 1993, by and between MATTIE P. BUNCH, widow, hereinafter referred to as "Grantor", and RICHARD T. HARRY and DONNA M. HARRY, husband and wife, hereinafter referred to as "Grantees",  
Rt. 9, Box 101A, Charlottesville, VA 22901

WITNESSETH:

That for and in consideration of the sum of SIXTY THOUSAND AND NO/100THS DOLLARS (\$60,000.00), of which Five Thousand and No/100ths dollars (\$5,000.00) is cash in hand paid, the receipt of which Grantor hereby acknowledges, and the balance of which is evidenced by Grantees' deferred purchase money real estate bond, Grantor does hereby GRANT, BARGAIN, SELL AND CONVEY, with GENERAL WARRANTY and ENGLISH COVENANTS OF TITLE, unto the said Richard T. Harry and Donna M. Harry, husband and wife, as tenants by the entirety with full rights of survivorship as at common law, and not as tenants in common, the following described

property:

All that certain tract or parcel of land, lying and being situate in the Cunningham Magisterial District of Fluvanna County, Virginia, near the Cunningham Church and on the north side of Virginia State Highway Number 619, adjoining the aforesaid highway and the lands now or formerly belonging to Fred Miller, Ed Parrish, W.J. Parrish and others, containing 61 1/2 acres, more or less, this conveyance being made in gross and not by the acre, and being the same property conveyed to Grantor by deed of J.F. Pace, dated May 1, 1967, of record in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia in Deed Book 70, page 375, to which deed reference is here made for a more particular description of the property conveyed hereby; together with a perpetual non-exclusive fifty foot right of way for the purpose of ingress and egress to and from the property conveyed hereby and State Route 53, as shown on plat of William S. Roudabush, Inc., dated December 5, 1980, which plat is attached to and recorded with the deed of Robert Hansford Pace, et ux, dated December 9, 1980 and

David B. Garland  
Attorney at Law  
405 Carrsbrook Dr.  
Charlottesville, VA 22901

RETURN TO:  
3-2-94

(B)

374 115

*[Handwritten signature]*  
10-13-99

Prepared by Gregory S. Duncan, Attorney at Law.

THIS DEED made this 13th day of August, 1999, by and between **RICHARD T. HARRY and DONNA M. HARRY**, husband and wife, parties of the first part, hereinafter referred to as the Grantors, and **JAMES S. MUSSELMAN**, party of the second part, hereinafter referred to as the Grantee, whose address is Route 7 Box 7126, Palmyra, VA 22963.

3910

10/13/99 (D.D.)  
ORIGINAL INSTRUMENT RETURNED TO:

WITNESSETH

THAT FOR AND IN CONSIDERATION of the sum of **Sixty Seven Thousand Five Hundred and 00/100 Dollars (\$67,500.00)**, cash in hand paid, the receipt of which is hereby acknowledged, and for other good and valuable consideration, the Grantors do hereby **GRANT, BARGAIN, SELL, and CONVEY with GENERAL WARRANTY and ENGLISH COVENANTS OF TITLE** unto the said Grantee, the following described property located in Fluvanna County, Virginia:

All that certain tract or parcel of land, with improvements thereon, lying and being situate in the Cunningham Magisterial District of Fluvanna County, Virginia, containing 10.00 acres, more or less and more particularly described on plat prepared by Timothy R. Miller, C.L.S., dated July 8, 1999 and recorded in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia immediately prior hereto; **TOGETHER with a 50' non-exclusive easement with ingress and egress to State Route 53 as shown on the aforesaid plat.**

BEING a part of the same property conveyed to Richard T. Harry and Donna M. Harry, husband and wife, by deed of **Mattie P. Bunch, widow and Alice P. Carver, (formerly Alice Gibson), widow**, dated November 7, 1996 and recorded in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia in Deed Book 308, page 440.

221

32 Book  
294 Page

Book  
28  
Pages  
77

March 27th., 1940 and recorded May 27th., 1940, in Deed Book 28 and Page 77 of the land records of the Circuit Court of Fluvanna County, Virginia, and to which reference is hereby made for a more particular description of the said land.

And the said grantors covenant that they have a right to convey the said land to the said grantees; that they have done no act to encumber the same and that it is free of encumbrances; and that the said grantees shall have quiet possession thereof, and that they will execute such further assurances of title as may be necessary or requisite.

Witness the following signatures and seals.

J. F. Pace	(SEAL)
A. D. Pace	(SEAL)
Helen G. Pace	(SEAL)

State of Virginia,  
County of Fluvanna, to-wit:

I, M. G. Crutchfield, a Notary Public for the County of Fluvanna, in the State of Virginia, do certify that J. F. Pace, a widower, whose name is signed to the foregoing deed, bearing date on the 6th. day of July, 1944, has this day acknowledged the same before me, in my County aforesaid.

Given under my hand this 14th day of July, 1944.

My commission expires 2-18-47.

M. G. Crutchfield, Notary Public

State of Virginia,  
County of Fluvanna, to-wit:

I, M. G. Crutchfield, a Notary Public for the County of Fluvanna, in the State of Virginia, do certify that A. L. Pace and Helen G. Pace, his wife, whose names are signed to the foregoing deed, bearing date on the 6th. day of July, 1944, have this day acknowledged the same before me, in my County aforesaid.

Given under my hand this 17th day of Aug., 1944.

My commission expires 2-18-47.

M. G. Crutchfield, Notary Public

Virginia: In the Clerk's Office of the Circuit Court of Fluvanna County,  
January 24, 1945.

The foregoing deed was this day received in said Office and thereupon together with the certificates thereto annexed, and U. S. Documentary Stamps, thereon, amounting to \$1.10, duly cancelled, admitted to record at 12:05 P. M

Teste: A. S. Haden Clerk

Virginia:

In the Clerk's Office of the Circuit Court of Fluvanna County, May 25, 1940.

The foregoing deed was this day received in said office and thereupon together with the certificate thereto annexed, admitted to record at 11, O'clock A. M.

Teste:

*A. D. Hudson*  
Clerk

Black, Evie C. et als.,

To: Deed of B. & S. ✓

J. F. & A. L. Pace

WHEREAS, R. F. Black, departed this life intestate twenty-two years ago, seized and possessed of a certain tract of land lying and being in the County of Fluvanna, in Cunningham Magisterial District, and containing 95½ acres, more or less, and

WHEREAS, the said R. F. Black left the following heirs, to-wit: Evie C. Black, his widow, and the following children Everett E. Black, Jessie H. Black, Clarence D. Black, Bessie Martin, (nee Black), Goldine Brown (nee Black) and Elmo Earle Black, being all of the heirs at law, of the said R. F. Black, deceased, and

WHEREAS, all of the heirs at law of R. F. Black, deceased desire to convey the above mentioned land unto J. F. Pace and A. L. Pace, jointly.

NOW THEREFORE, THIS DEED, Made and entered into this the 27th. day of March 1940, by and between Evie C. Black, widow, Everett E. Black and Mary Black, his wife Jessie H. Black and Eula Black, his wife, Clarence D. Black and Ruth Black, his wife, Bessie Martin and Euteea Martin, her husband, Goldine Brown and Curtis Brown, her husband, Elmo Earle Black and Mary Black, his wife, parties of the first part, and J. F. Pace and A. L. Pace, parties of the second part.

WITNESSETH: That for and in consideration of the sum of Ten (\$10.00) Dollars, cash in hand paid by the parties of the second part unto the said parties of the first part and other valuable consideration not deemed necessary herein to mention, the receipt of all which is hereby acknowledged, the said parties of the first part have bargained and sold and by these presents doth grant and convey unto the said J. F. Pace and A. L. Pace, jointly, the following described tract or parcel of land with the improvements thereon with General Warranty of Title, to-wit:

All of that certain tract or parcel of land lying and being in the County of Fluvanna, in Cunningham Magisterial District, near Cunningham Church, and adjoining the lands of J. F. Pace, Jessie Franklin, John O. Maden, Edd Parrish and W. J. Parrish, and fronting on the old road leading from Cunningham Church to B. M. Church, and lying on the north side of said road, and containing 95½ acres, more or less, and being the same land in all respects upon which R. F. Black, resided at the time of his death, and also the same land that the grantors in this deed inherited from R. F. Black, and being the same land in all respects that was conveyed to R. F. Black by William F. Black's heirs by deed bearing date August 21, 1896, and of record in the Clerk's Office of the Circuit Court of Fluvanna County in D. B. No. 11, page 220 and 221 thereof. Reference may be had to said deed for a more complete description of the land herein conveyed.

It is covenanted and agreed between all of the parties to this deed that the said J. F. Pace and A. L. Pace shall have the right and use of the spring across the road from the land herein conveyed with the right of ingress and egress to and

Tax .60  
Fee 2.00  
Tre 1.00  
\$3.60  
Pd.

EXR:  
6-7-40

The Originals Made to  
J. F. Pace  
June 7-1940 A. D. Hudson  
Clerk

11 Book  
220-221  
Page

Witness the following signatures and seals:

- W. G.H. Black (SEAL)
- Sallie M. Black (SEAL)
- L. P. Dudley (SEAL)
- Christianna Dudley (SEAL)
- H. H. Black (SEAL)
- J. H. Black (SEAL)
- Jas A. Black (SEAL)
- C. F. Black (SEAL)
- Victoria J. Scruggs (SEAL)
- his
- J. W.XScruggs
- mark

Witness to signature of J.W.Scruggs  
R. E. Brockman, Sewell, W. Va.

State of virginia, County of Albemarle, to-wit:

I, J. E. Gibson, a Justice of the Peace for the County aforesaid, in the State of Virginia do certify that W. G. P. Black and Sallie M. Black, his wife, whose names are signed to the writing above bearing date on the 21st day of August 1896, have acknowledged the same before me in my County aforesaid.

Given under my hand this 25th day of August, 1896.

J. E. Gibson, J.P. (SEAL)

State of Virginia, Flubanna County, to-wit:

I, B. W. Taylor, a Justice of the Peace for the County aforesaid, hereby certify that Christianna Dudley and her husband L. P. Dudley, H. H. Black, Isabella H. Black and Jas. A. Black, whose names are signed to the above writing bearing date on the 21st day of August, 1896, have signed and acknowledged the same before me in my County aforesaid.

Given under my hand this the 17th day of June, 1899.

B. W. Taylor, J. P.

Mrs. C. F. Black, who is the wife of H. H. Black and whose name is omitted in the body of the deed above written signed and acknowledged the same in my presence this the 17th, day of June, 1899.

B. W. Taylor, J. P.

I, Charles A. Middleburg, a Justice in and for the County of Fayette, State of West Virginia, do certify that Victoria J. Scruggs and J. W. Scruggs, whose names are signed to the foregoing deed, have this day appeared before me and acknowledged the same.

Given under my hand this 14th day of November, 1907.

Charles A. Middlebury, Justice of the Peace  
Fayette Co. W. Va.

RECEIVED in full of all claims of my brother Robert F. Black for my part of the land occupied now by my father W. F. Black. This lot of land is to be conveyed to my brother at any time my father wishes- this claim is transferred agreeable to the family of my father W. F. Black.  
March 15th 1887.

Mary H. M. Dudley  
L. P. Dudley.

Witness to signature of Mary H.M.Dudley.  
Jas A. Black  
Christianna Dudley.

Virginia: In the Clerk's Office of the Circuit Court of Fluvanna County October 18th, 1919.

The foregoing writing was this day received in said Office and the signature of Mary H.M. Dudley was proven by the oaths of Jas A. Black and Christianna Dudley, and thereupon said writing was admitted to record.

Teste: M. W. Perkins, Deputy Clerk.

Virginia: In the Clerk's Office of the Circuit Court of Fluvanna County October 18th, 1919.

This deed was this day received in said Office and thereupon together with the certificate thereto annexed, admitted to record at 5 o'clock P. M.

Teste: [Signature]  
Clerk.

original and marked to  
J. P. Cleveland Apr 7 1910  
Notary Public, etc.

and on which they now reside, on the north by the W. E. Seay, estate on which J. G. Seay now resides, near where public road folks leading to Hardware and seven island; containing three acres of land, residence, barn stable fences and all out buildings thereon, and the parties of the first part covenant with the party of the second part that they have the right to convey the said property to the grantee; that they have done no act to encumber the said property, that the grantee shall have quiet possession of the said property, free from any encumbrances and loans, and that the parties of the first part will execute or cause to be executed further assurances as may be requested.

Witness the following signatures and seals:

J. F. Weymouth, (Seal)

A. J. Weymouth, (Seal)

State of Virginia, )  
Fluvanna County, ) ss.

I, E. N. Wood, a Notary Public in and for said County and State, do certify that J. F. Weymouth and A. J. Weymouth, his wife, whose names are signed to the foregoing deed, bearing date on the 5th day of August 1910, have acknowledged the same before me in my aforesaid County and State.

Given under my hand this 5th day of August 1910.

My commission expires June 19th, 1911,

E. N. Wood, N. P.

Virginia,

In the Clerk's Office of the Circuit Court of Fluvanna County October 14th, 1910.

This deed was this day received in said office and thereupon together with the certificate thereto annexed, admitted to record at 9, O'clock, A. M.

Teste:

*[Signature]*

Clerk.

recd \$1.50  
Tax 50  
Frank. 00  
\$3.00  
paid,

Black Wm G. P. Et als.

To) Deed of B. & S.

Black R. F.

WHEREAS, Geo W. Black, by his last will duly probated in the County Court of Fluvanna County, at the July term 1855, of said Court, among other things devised to his son William F. Black, for life, and at his death to his lawful Children, a tract of land on the north side of Palmyra road supposed to contain one hundred acres, which said tract of one hundred acres, the following Children of said William F. Black, to wit: Wm G.P. Black, Christianna Dudley, wife of L. P. Dudley, Victoria J. Scruggs, wife of J. W. Scruggs, H. H. Black, Henerietta H. Black, and Jas H. Black, have sold their interest to R. F. Black, for the aggregate sum of \$240.00, the interest of each one of said Children being an undivided one eighth in said tract of one hundred acres which they now desire to convey to said R. F. Black, their Brother.

NOW THEREFORE THIS DEED, made this 21st day of August 1896 between Wm G. F. Black, and Sallie M. his wife, Christianna Dudley and L. P. her husband, Victoria J. Scruggs and J.W. her husband, H. H. Black and Cornelia, his wife, Henerietta H. Black and Jas Black, parties of the first part and R. F. Black party of the second part:

WITNESSETH: that in consideration of the sum of forty dollars paid by the parties of the first part to each of the following Children of said Wm F. Black, to-wit: W. G. P. Black, Christianna Dudley, wife of L. P. Victoria J. Scruggs wife of J. W. H. H. Black, Henerietta H. Black and Jas H. Black, the receipt whereof is hereby acknowledged, the said parties of the first part hereby sell and convey with special warranty of title to the party of the second part, all their interest in said tract of one hundred acres, of land devised as above recited said 100 acres adjoins the lands of J. O. Haden on the west Lucy S. on the east Public road on the south and Jesse Franklin on the north, It is agreed by the parties to this deed that the parties of the first part, convey in the aggregate an undivided six-eighth of said tract of one hundred acres the interest of each of said Wm F. Black Children being one eighth.

49 Book  
198 Page

See letter of authority filed  
with deeds 8-17-57  
Richard H. Hays, Clerk

duties and obligations imposed by Section 55-59 of the Code of Virginia, of 1950 as amended, and that the Trustee herein and the beneficiary hereunder shall have all the rights, powers and securities conferred by said Act, and that the said Act shall control in the construction and execution of this trust in all respects unless herein expressly otherwise provided.

Witness the following signatures and seals:

s/ Peyton Bradley (SEAL)

s/ Emma Bradley (SEAL)

State of Virginia,

County of Louisa, to-wit:

I, Louise W. Hiter, a Notary Public in and for the County Of Louisa, State of Virginia, do hereby certify that Peyton Bradley and Emma Bradley, his wife, whose names are signed to the the foregoing writing bearing date on the 3rd day of September 1955 have personally appeared before me in my County and State aforesaid and acknowledged their signatures to the same.

My commission expires on the 21 day of Jan. 1959.

Given under my hand this 3rd day of September, 1955.

Louise W. Hiter  
Notary Public

VIRGINIA: In the Clerk's Office of the Circuit Court of Fluvanna County September 8, 1955.

The foregoing deed was this day received in said office and thereupon together with the certificate(s) thereto annexed, admitted to record at 4:00 P. M.

Teste: *Richard H. Hays* Clerk.

Tax \$3.00  
TR 1.00  
Fee 3.00  
\$7.00

L. W. BUNCH AND MERTIE BUNCH, HUSBAND AND WIFE,

TO: DEED OF B&S ✓

J. F. PACE

THIS DEED, made and entered into this 8th day of September, 1955, by and between L. W. Bunch and Mertie Bunch, husband and wife, parties of the first part, and J. F. Pace, party of the second part,

WITNESSETH:

That for and in consideration of the sum of Ten Dollars (\$10.00) cash in hand paid and other valuable considerations the receipt of which is hereby acknowledged by the parties of the first part, the said parties of the first part doth hereby grant, bargain, sell and convey with GENERAL WARRANTY OF TITLE unto the said J. F. Pace, the following described tract or parcel of land, to-wit:

All that certain tract or parcel of land lying and being situate in the Cunningham Magisterial District of Fluvanna County, Virginia, near Cunningham Church and on the North side of Virginia State Highway No. 619, containing sixty one and one half (61½) acres, more or less, adjoining the aforesaid highway, the lands now or formerly belonging to Fred Miller, Ed Parrish, W. J. Parrish and others, being in all respects the land conveyed to the grantors herein by deed of J. F. Pace and others, dated July 6, 1944, recorded in the Clerk's Office of the Circuit Court of Fluvanna County in Deed Book 32, page 293, except a tract of 34 acres conveyed by the grantors herein to Fred Miller and Pauline Miller by deed dated October 17, 1949, recorded in the aforesaid Clerk's Office in Deed Book 41, page 82, to which deeds reference is hereby made for a more particular description of the land herein conveyed.

Original Deed delivered  
to Burgis P. Smith, Sr. City  
Clerk, Va. 9-18-55  
Jean S. Griffin  
Deputy Clerk.

32B  
293P →

Book 32  
Page 293

part, his vendees, heirs and assigns are not to pass over cultivated lands or injure any growing crops.

Witness the following signatures and seals.

Annie B. Parker	(SEAL)
Winston Parker	(SEAL)
W. S. Haney	(SEAL)

STATE OF VIRGINIA,  
COUNTY OF FLUVANNA, to-wit:

I, Frances N. Phillips, a Deputy Clerk of the Circuit Court, in and for the County, in the State aforesaid, do hereby certify that Annie B. Parker and Winston Parker, her husband and W. S. Haney, whose names are signed to the foregoing contract bearing date on the 24th day of January, 1945, have this day personally appeared before me in my County and Office aforesaid and acknowledged the same.

Given under my hand this the 24th day of January, 1945.

Frances N. Phillips, Deputy Clerk  
of Circuit Court

Virginia: In the Clerk's Office of the Circuit Court of Fluvanna County,  
January 24, 1945.

The foregoing contract was received in said Office and thereupon together with the certificate thereto annexed, admitted to record at 10:55 A. M.

Teste: A. B. Haden Clerk

TAX \$ .96  
TR. 1.00  
FEE 1.75  
\$3.71  
Paid

J. F. & A. L. PACE & HELEN G. PACE  
TO: DEED OF B & S ✓  
L. W. & MERTIE BUNCH

THIS DEED, made this 6th. day of July, 1944, by and between J. F. Pace, a widower, A. L. Pace and Helen G. Pace, his wife, parties of the first part, and L. W. Bunch and Mertie Bunch, his wife, parties of the second part:

WITNESSETH: That for and in consideration of the sum of EIGHT HUNDRED DOLLARS (\$800.00) cash in hand paid, the receipt of which is hereby acknowledged, the said J. F. Pace, A. L. Pace and Helen G. Pace, his wife, who unites herein for the purpose of conveying her contingent dower estate in the hereinafter described property, do hereby bargain, grant, sell and convey, in fee simple, and with GENERAL WARRANTY of title unto L. W. Bunch and Mertie Bunch, his wife, JOINTLY:

All that certain tract or parcel of land containing NINETY-FIVE AND ONE-HALF (95½) acres, more or less, together with improvements thereon, appurtenances thereto, and easements and rights-of-way as mentioned in the hereinafter mentioned deed, and lying, being, and situate in Cunningham Magisterial District, Fluvanna County, Virginia, near Cunningham Church and on the North side of the old road leading from the aforesaid Church to B. M. Church, and adjoining the lands of the now or late Jesse Franklin, John O. Haden, Ed Parrish, W. J. Parrish, and others, and being the same land in all respects conveyed by Evie C. Black and others - Heirs of R. F. Black, deceased - to the grantors herein by deed dated

Rec'd  
2-2-45  
Magisterial Court  
C. S. Haden, Clerk

# Completion Statement

Commonwealth of Virginia  
State Department of Health

Health Department  
Identification Number 132-99-0141

FLUVANNA Health Department

Name of Company/Corporation/Individual: ROCKMARE & SONS

Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

Owner's Name DONNA HARRY

Owner's Address RT 9 Box 101A C-VILLE, VA 22902

Location of Installation: Lot \_\_\_\_\_ Block \_\_\_\_\_

Section: \_\_\_\_\_ Subdivision: \_\_\_\_\_

Other: 3<sup>RD</sup> DRIVE WEST OF CUNNINGHAM'S STORE

I hereby certify that the onsite sewage disposal system has been installed and completed in accordance with the construction permit issued (date) 6/14/99 and is in compliance with Part D of the Sewage Handling and Disposal Regulations and when appropriate the plans and specifications for the project.

6-29-99  
Date

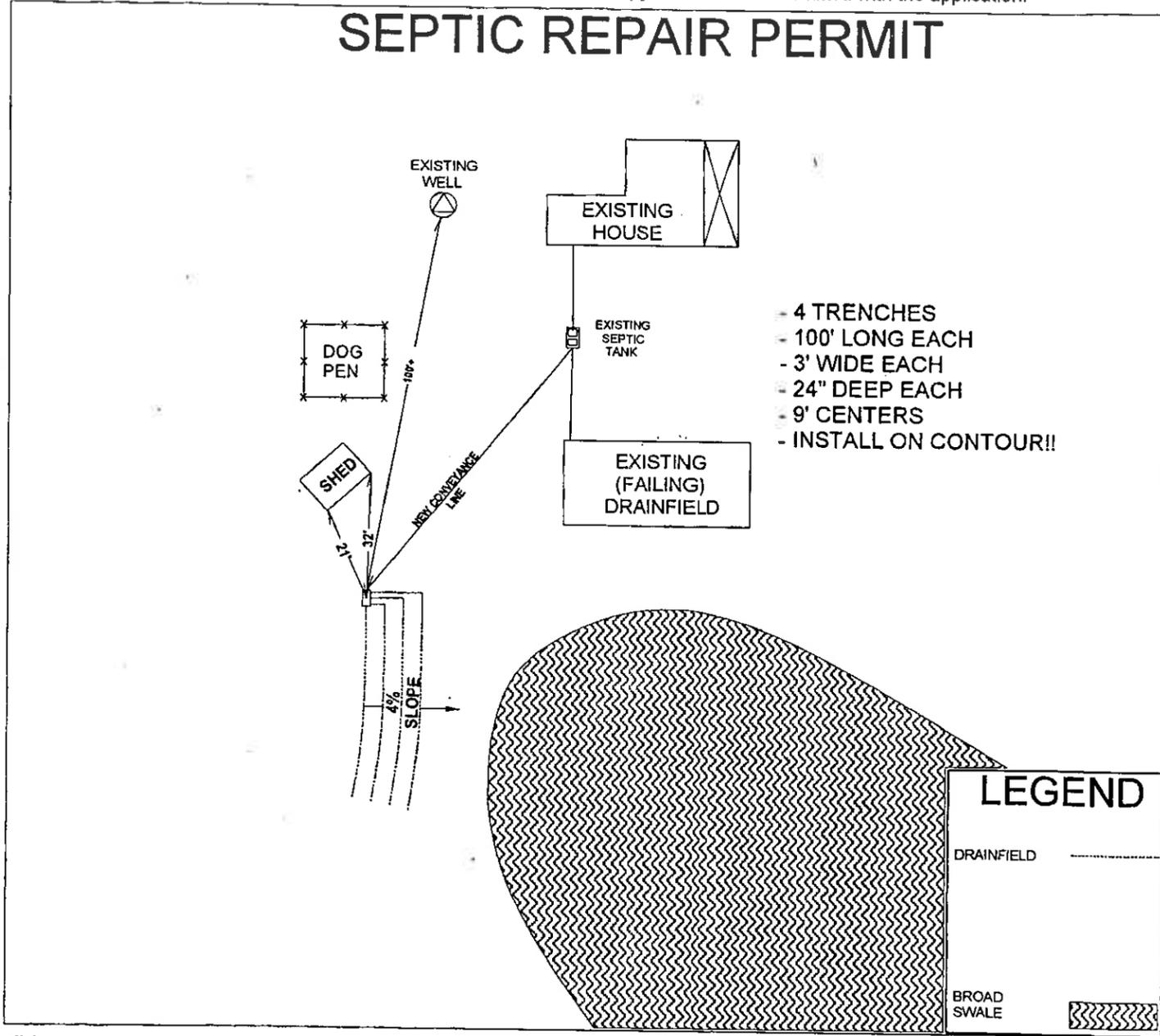
[Signature]  
Signature and Title

**Schematic drawing of sewage disposal and/or water supply system and topographic features.**

Show the lot lines of the building site, sketch of property showing any topographic features which may impact on the design of the well or sewage disposal system, including existing and/or proposed structures and sewage disposal systems and wells within 200 feet. The schematic drawing of the well site or area and/or sewage disposal system shall show sewer lines, pretreatment unit, pump station, conveyance system, and subsurface soil absorption system, reserve area, etc. When a nonpublic drinking water supply is to be permitted, show all sources of pollution within 200 feet.

The information required above has been drawn on the attached copy of the sketch submitted with the application.

# SEPTIC REPAIR PERMIT



This sewage disposal system and/or water supply is to be constructed as specified by this permit.

This sewage disposal system and/or well construction permit is null and void if (a) conditions are changed from those shown on the application (b) conditions are changed from those shown on the construction permit.

No part of any installation shall be covered or used until inspected, corrections made if necessary, and approved, by the local health department or unless expressly authorized by the local health dept. Any part of any installation which has been covered prior to approval shall be uncovered, if necessary, upon the direction of the Department.

Date: 6/14/99 Issued by: [Signature]  
 Environmental Health Specialist

Date: \_\_\_\_\_ Reviewed by: \_\_\_\_\_  
 Environmental Health Supervisor

This Construction Permit Valid until 12/2000

# Water Supply and/or Sewage Disposal System Construction Permit Page 1 of 3

Commonwealth of Virginia  
 Department of Health  
 FLUVANNA CO. HEALTH DEPARTMENT

Health Department  
 Identification Number: 132-99-0141  
 Tax Map Number: 18 (A) 13

### General Information

Water Supply System: EXISTING Sewage Disposal System: REPAIR

Based on the application for a sewage disposal system construction permit filed in accordance with Section 2.13 E, of the Sewage Handling and Disposal Regulations and/or Section 2.13 of the Private Well Regulations a construction permit is hereby issued to:

Owner: DONNA HARRY Telephone: 804-589-4296  
 Address: RT. 9 BOX 101A, CHARLOTTESVILLE, VA 22902

For a Type I Sewage Disposal System or Well to be constructed on/at  
RT. 53, 3RD DRIVEWAY ON L PAST CUNNINGHAM STORE

Sec/Bk \_\_\_\_\_ Lot \_\_\_\_\_ Actual or estimated water use 450 gpd - 3 bedrooms

DESIGN	NOTE: SEWAGE DISPOSAL SYSTEM INSPECTION RESULTS
Water supply, EXISTING WELL	Water supply location: Satisfactory yes <input type="checkbox"/> no <input type="checkbox"/>  EHS _____ DATE _____
Building Sewer: <u>4"</u> I.D. PVC Schedule 40, or equivalent. Slope 1.25" per 10ft (min.) Other _____	Building Sewer: Satisfactory yes <input type="checkbox"/> no <input type="checkbox"/> EHS <u>EXISTING</u> DATE _____
Septic Tank: Capacity: <u>900 Gals.</u> (min.) Other _____	Pretreatment unit: Satisfactory yes <input type="checkbox"/> no <input type="checkbox"/> EHS <u>EXISTING</u> DATE _____
Inlet-outlet structure: PVC Schedule 40, 4" tees or equivalent. Other _____	Inlet-outlet structure: Satisfactory yes <input type="checkbox"/> no <input type="checkbox"/> EHS <u>EXISTING</u> DATE _____
Pump and pump station: <u>NO</u>	Pump & pump station: Satisfactory yes <input type="checkbox"/> no <input type="checkbox"/> EHS _____ DATE _____
Gravity mains: 3" or larger I.D., min. 6" fall per 100 ft., 1500 lb. crush strength or equivalent. Other _____	Conveyance method: Satisfactory yes <input checked="" type="checkbox"/> no <input type="checkbox"/> EHS <u>WK</u> DATE <u>6/29</u>
Distribution Box: Precast concrete with <u>5</u> ports. Other _____	Distribution box: Satisfactory yes <input checked="" type="checkbox"/> no <input type="checkbox"/> EHS <u>WK</u> DATE <u>6/29</u>
Header lines: Material: 4" I.D. 1500 lb. crush strength plastic or equivalent from distribution box to 2 ft into absorption trench. Slope 2" min. Other _____	Header lines: Satisfactory yes <input checked="" type="checkbox"/> no <input type="checkbox"/> EHS <u>WK</u> DATE <u>6/29</u>
Percolation lines: Gravity 4" plastic 1000 lb. per foot bearing load or equiv. slope 2" - 4" (min. max.) per 100ft Other _____	Percolation lines: Satisfactory yes <input checked="" type="checkbox"/> no <input type="checkbox"/> <u>7'1" 7'5" 7'5 1/2" 7'11"</u> EHS <u>WK</u> DATE <u>6/29</u>
Absorption trenches: Sq ft. required: <u>1200</u> depth from ground surface to bottom of trench <u>24"</u> : aggregate size <u>.5-1.5"</u> : Trench bottom slope <u>2-4"/100 ft</u> center to center spacing <u>9 FT</u> : Trench width <u>36"</u> Depth of aggregate <u>13"</u> : Trench length <u>100 ft</u> : Number of trenches <u>4</u> :	Absorption trenches: Satisfactory yes <input checked="" type="checkbox"/> no <input type="checkbox"/> <u>8'6 1/2" 8'10" 9'4 1/2" 9'8"</u> EHS <u>WK</u> DATE <u>6/29</u>
	Date <u>6/29/99</u> Approved by: <u>[Signature]</u> Environmental Health Specialists



THOMAS JEFFERSON HEALTH DISTRICT

Important Notice

PLEASE READ BEFORE FILING YOUR APPLICATION  
AND PAYING YOUR FEE

This is to inform you that the fees for Environmental Health permits mandated by the State, cannot be refunded once the application has been filed and the fee paid except for the following reasons:

1. If the applicant withdraws their application before the sanitarian makes a site visit to evaluate the property and if a refund is requested by the applicant. or
2. The Health Department is unable to issue a permit and only then if (a) you own the lot and are seeking to construct your principal place of residence on this lot, and only then if (b) you provide written notification to the Health Department that you are foregoing your right to appeal the denial of your request for a permit.

In order for you to then appeal at a later date, the above refunded fee would need to be reinstated before a hearing date would be scheduled.

If you do not intend to build now, but only need the soil tested before a sale is made, we recommend that you hire a soil consultant to do the test and apply for a Health Department permit when you know where you want to build. It is your responsibility to have the corners or property lines of a lot clearly marked and to have the four corners of the proposed house site flagged. The sanitarian will not be able to complete work without these markings. He may refuse to perform the soil study if this has not been done. Also if the lot is too overgrown then the sanitarian may require bushhogging, etc., before site work can be done.

It is also your responsibility to make it clear to the sanitarian which one or two areas on your lot you want tested, although he will advise you which areas appear more suitable for a septic system. No more than two areas will be tested and the permit will be issued showing the location of the system in only one suitable site. The site cannot be changed later without additional expense on your part. If this occurs, you will need to hire a private soil consultant to test another site and submit his report, along with a new application and fee to the health department.

I have read and understand the above application notice.

Downs Harry  
Signature of Applicant

6-4-99  
Date

# TAG SHEET

( ) Cert. Ltr.     Septic    ( ) Well    ( ) Combination     Repair

PERMIT I.D. # 132-99-0141

TAX MAP: 18(A)13    SUBDIVISION: \_\_\_\_\_    LOT: \_\_\_\_\_

OWNER: Donna Harry    AGENT: \_\_\_\_\_

	DATE	INITIALS
APPLICATION RECEIVED: (fee determined, reviewed)	<u>6-4-99</u>	<u>[Signature]</u>
ASSIGNED TO: <u>Jeff</u>	<u>6-4-99</u>	_____
SITE VISIT SCHEDULED: Time: <u>11:00</u>	<u>6-11-99</u>	<u>[Signature]</u>
SITE VISIT MADE:	<u>6-11-99</u>	<u>Jeff</u>
TO OSA FOR DATA ENTRY:	<u>6-14-99</u>	<u>Jeff</u>
RETURNED TO EH STAFF:	<u>6-15-99</u>	<u>[Signature]</u>
DRAWING COMPLETED, RETURNED TO OSA	_____	_____
ISSUE/DENY <u>MAILED</u> :	<u>6-16-99</u>	<u>[Signature]</u>
ISSUE/DENY PICKED UP:	_____	_____

NOTES: \* Rocky will meet you - call before you come out.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Commonwealth of Virginia  
Application for a Sewage Disposal and/or Water Supply Permit**

Health Department ID 132-99-0141

**To Be Completed By The Applicant**

Type of sewage system:  New  Repair  Expanded  Conditional  
 FHA/VA yes  no  Case No. \_\_\_\_\_

Owner Donna Harry Address Rt. 9 Box 101A Phone 589-4296  
Chesley, VA 22902

Agent \_\_\_\_\_ Address \_\_\_\_\_ Phone \_\_\_\_\_

Directions of Property Rt. 53 - past Cunningham Store -  
3rd drive past store on Ⓣ - Across from white 2 store

Subdivision \_\_\_\_\_ Section \_\_\_\_\_ Block \_\_\_\_\_ Lot Barn - Before  
Beth Sadler's  
Driveway

Other Property Identification \_\_\_\_\_

Dimension/size of Lot/Property 19 Acres

**Other Application Information**

**I. Building/facility**  New  Existing  
 Intermittent Use  Yes  No If yes, describe \_\_\_\_\_

**II. Residential Use**  Yes  No  
 Termite Treatment  Yes  No  
 Single Family (Number of Bedrooms 3)  Multi-family (Number of Units \_\_\_\_\_)

Basement  Yes  No  
 Fixtures in Basement  Yes  No

**III. Commerical Use**  Yes  No Describe: \_\_\_\_\_

Commerical/Wastewater  Yes  No Number of Patrons \_\_\_\_\_  
 Number of Employees \_\_\_\_\_

If yes, give volumes and describe \_\_\_\_\_

**IV. Water Supply:**  Public  New  Existing  
 Private  New  Existing

Describe: \_\_\_\_\_

**V. Proposed Sewage Disposal Method:**

Onsite Sewage Disposal System:  Septic Tank Drainfield  LPD  Mound  Other

Public Sewerage System

Attach a site plan (rough sketch) showing dimensions of property, proposed and/or existing structures and driveways, underground utilities, adjacent soil absorption system, bodies of water, drainage ways, and wells and springs within 200 feet radius of the center of the proposed well or drainfield. Distances may be paced or estimated.

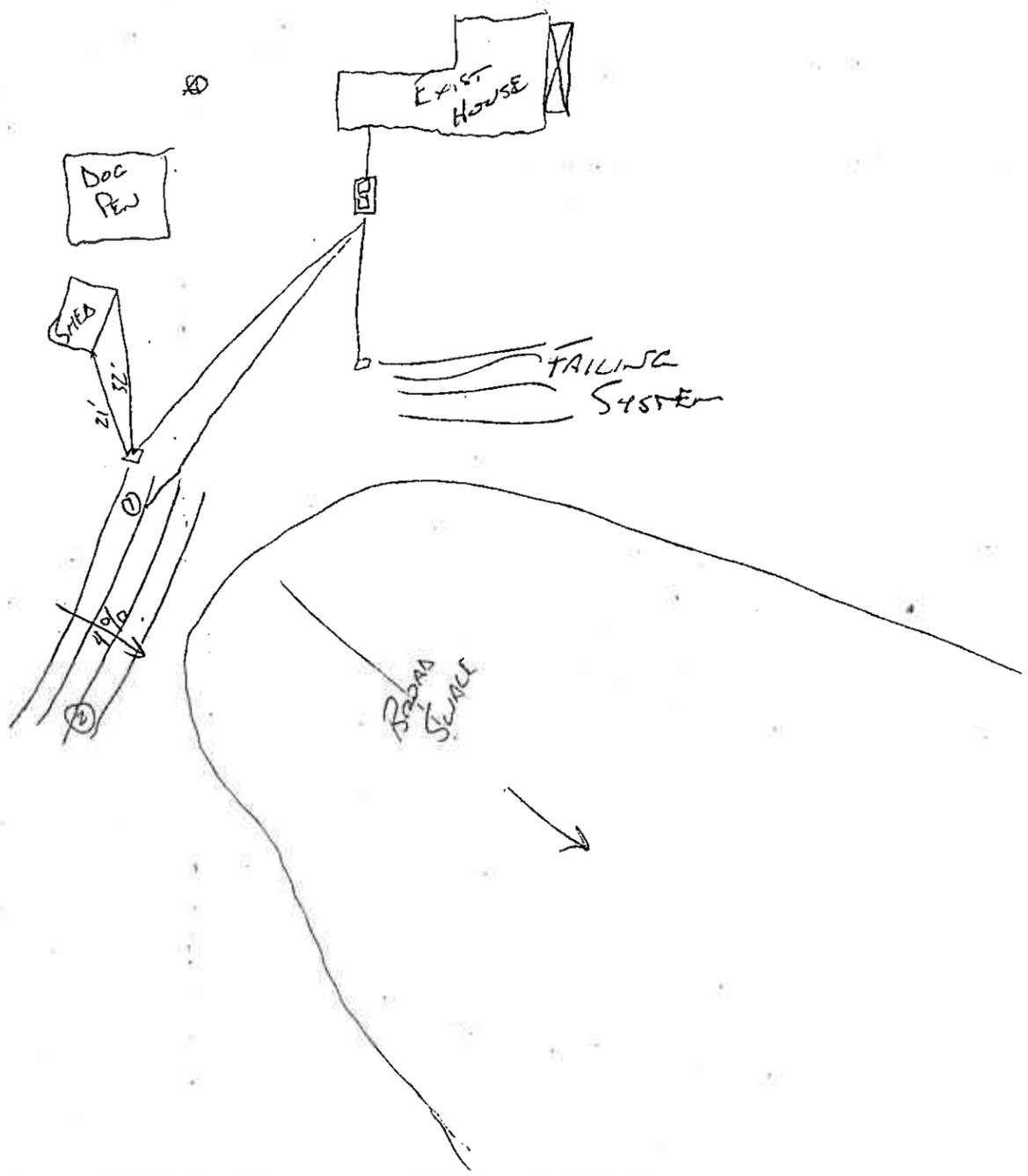
The property lines and building location are clearly marked and the property is sufficiently visible to see the topography. I give permission to the Department to enter onto the property described for the purpose of processing this application.

Donna Harry  
 Signature of Owner/Agent

10-4-99  
 Date



4 x 100'  
24" 9' COPS



No. 132-99-0141

TAX MAP #: 18 (A) 13



# PERMIT

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF HEALTH

THIS PERMIT  
EXPIRES ON

N/A

DATE OF ISSUE

June 29, 1999

OPERATOR: DONNA HARRY  
ADDRESS:  
LOCATION: RT. 53, 3RD DRIVEWAY ON L  
PAST CUNNINGHAM STORE

**VDH** DEPARTMENT OF HEALTH

*The above operator has made application and in accordance with the regulations of the Board of Health of the Commonwealth of Virginia is authorized by the FLUVANNA COUNTY Health Department to operate a 450 GPD - 3 BEDROOMS - TYPE I SEWAGE DISPOSAL SYSTEM ONLY. WATER IS SUPPLIED BY AN EXISTING PRIVATE WELL*

*Charles A. Miller*  
HEALTH OFFICIAL

THIS PERMIT IS NOT TRANSFERABLE FROM ONE INDIVIDUAL OR LOCATION TO ANOTHER

NAME Donna Harry

PAGE 3 OF 3

HEALTH DEPARTMENT I.D. # 132-99-0141 TAX MAP # 18(A)13

- \* See page #2 for design drawing. This drawing is not to scale.
- \* Pump is required when the ground surface over the drainfield trenches is at a higher elevation than any plumbing fixture or the sewer line leaving the house.
- \* Do not disturb the soil in the drainfield or reserve area(s).
- \* No buried utility service shall be closer than 10' to any part of this system.
- \* Follow all OSHA requirements.
- \* Do not install or cover drainfield system during periods of wet weather or wet soil.
- \* It is recommended that all trees be removed from the drainfield and all hydrophilic trees within 10' of the drainfield MUST be removed.
- \* Place untreated building paper or approved material over the trench gravel.
- \* The maximum soil cover over septic/pump tanks and distribution boxes is 18" to 24."
- \* All tanks shall be watertight. Weep holes must be plugged and joints must be sealed.
- \* Final grade of drainfield shall be crowned to divert surface water and prevent ponding.
- \* Roof gutter drains, basement sump discharges (non-sewage), floor drains, footing drains, discharge from water treatment systems, etc. being connected to this system is PROHIBITED! Divert these away from the drainfield area.
- \* Keep structures and driveways off all parts of septic system and reserve area(s).
- \* Minimum separation between drainfield/reserve area(s) & well sites is 100' for Class IIIC wells & 50' for Class IIIB wells. This distance increases by 25' for every 5% of slope for wells down slope of any source of contamination (house site, drainfield/reserve areas, etc.).
- \* It is the owner's responsibility to ensure that the well and septic system is on the property and does not interfere with utilities and easements.
- \* Well and all water lines shall be disinfected prior to water sampling.
- \* Health Dept. Operation Permit and Well Inspection Report required prior to occupancy. Please allow 24 hours after receipt of Completion Statement, Well Log and Water Sample for Operation Permit to be issued.
- \* It shall be responsibility of owner or any subsequent owner to maintain, repair or replace (requires a permit) any sewage disposal system that ceases to operate in a sanitary manner.
- \* All septic and well contractors must have a current license with the Va. Department of Commerce.
- \* It is recommended that the home owner be present when the well is grouted.
- \* Dry well holes must be permanently abandoned in accordance with the Private Well Regulations.
- \* If septic tank location is in a place of suspected high water table or saturation, please refer to tank manufacturer's instructions on placing tanks in saturated areas.
- \* It is illegal to put either well or septic system into use without final Health Department approval.

PLEASE READ CAREFULLY!

Contact Sale of Property  
to Musselman

374 115

Prepared by Gregory S. Duncan, Attorney at Law.

THIS DEED made this 13th day of August, 1999, by and between **RICHARD T.**

**HARRY and DONNA M. HARRY**, husband and wife, parties of the first part,

hereinafter referred to as the Grantors, and **JAMES S. MUSSELMAN**, party of the

→ second part, hereinafter referred to as the Grantee, whose address is Route 7 Box 7126,  
Palmyra, VA 22963.

WITNESSETH

THAT FOR AND IN CONSIDERATION of the sum of **Sixty Seven Thousand Five Hundred and 00/100 Dollars (\$67,500.00)**, cash in hand paid, the receipt of which is hereby acknowledged, and for other good and valuable consideration, the Grantors do hereby GRANT, BARGAIN, SELL, and CONVEY with GENERAL WARRANTY and ENGLISH COVENANTS OF TITLE unto the said Grantee, the following described property located in Fluvanna County, Virginia:

All that certain tract or parcel of land, with improvements thereon, lying and being situate in the Cunningham Magisterial District of Fluvanna County, Virginia, containing 10.00 acres, more or less and more particularly described on plat prepared by Timothy R. Miller, C.L.S., dated July 8, 1999 and recorded in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia immediately prior hereto; TOGETHER with a 50' non-exclusive easement with ingress and egress to State Route 53 as shown on the aforesaid plat.

BEING a part of the same property conveyed to Richard T. Harry and Donna M. Harry, husband and wife, by deed of Mattie P. Bunch, widow and Alice P. Carver, (formerly Alice Gibson), widow, dated November 7, 1996 and recorded in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia in Deed Book 308, page 440.

*[Handwritten signature]*  
10-13-99

3910

ORIGINAL INSTRUMENT RETURNED TO:  
10/13/99 (ADD)

The property hereby conveyed is subject to any and all easements, restrictions, reservations and conditions contained in duly recorded deeds, plats and other instruments constituting constructive notice in the chain of title to the above-described property which have not expired by a time limitation contained therein or which have not otherwise become ineffective.

WITNESS the following signature(s) and seal(s):

Richard T. Harry (SEAL)  
Richard T Harry

Donna M. Harry (SEAL)  
Donna M Harry

STATE OF VIRGINIA  
COUNTY OF ALBEMARLE, to-wit:

The foregoing instrument was acknowledged before me this 13 day of August, 1999 by Richard T Harry.

Rebecca J. Tuttle  
Notary Public

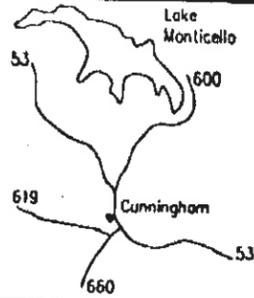
My commission expires: 7/31/03

STATE OF VIRGINIA  
COUNTY OF ALBEMARLE, to-wit:

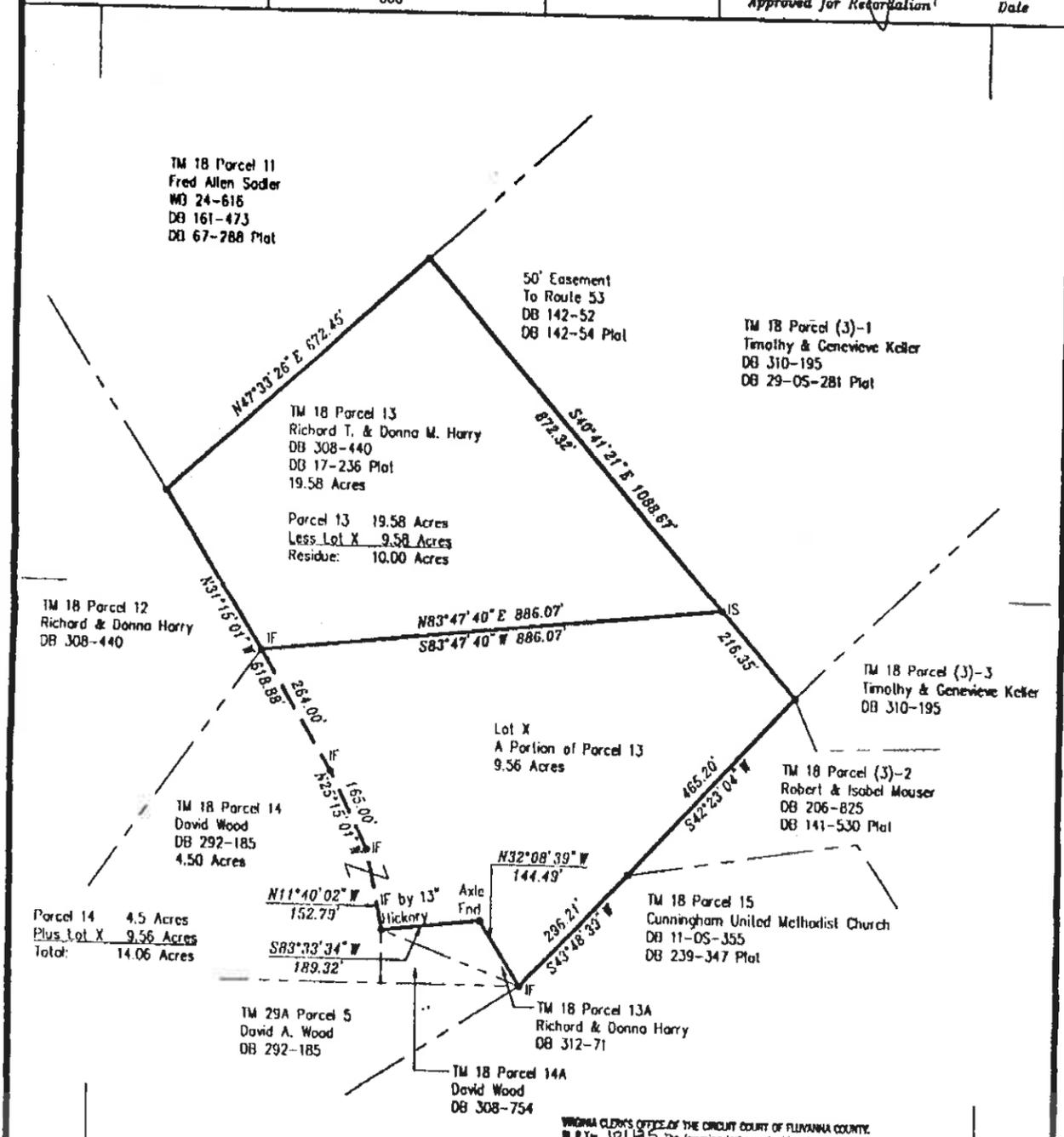
The foregoing instrument was acknowledged before me this 20 day of August, 1999 by Donna M. Harry.

Rebecca J. Tuttle  
Notary Public

My commission expires: 7/31/03



*Goldie J. Smith*  
Approved for Recordation Date 6/19/99



PLAT SHOWING BOUNDARY ADJUSTMENT OF  
TAX MAP 18 PARCELS 13 AND 14

### THE RICHARD & DONNA HARRY AND DAVID WOOD PROPERTIES

CUNNINGHAM DISTRICT, FLUVANNA COUNTY, VIRGINIA  
SCALE: 1" = 200' DATE: JUNE 17, 1999

180013.dwg  
RIVANNA ENGINEERING & SURVEYING, INC.  
P.O. BOX 154 PALMYRA, VA. 22963-0154  
PHONE: (804) 589-8395

VIRGINIA CLERK'S OFFICE OF THE CIRCUIT COURT OF FLUVANNA COUNTY.	
Deed Tax	102.18
Deed Fee	3.00
Transfer	1.00
Dist	1.00
Order Tax	0.00
Total	107.18

The foregoing instrument with acknowledgment was admitted to record on 06/17/99 at 10:11 AM in D.B. # 144-20000-0000-117 recording costs paid as shown.

*Donna Y. Smith Deputy*



**CIVIL**

**ORDER BOOK**

**11**

**FLUVANNA COUNTY, VA.**

---

T.M. 18 ((A)) 11  
ANNE ELIZABETH LUNIEWSKI  
D.B. 612-867  
D.B. 67-288 PLAT

IRON FOUND N47°33'26"E 672.45' IRON SET 65.76' IRON FOUND N47°33'50"E 414.01' IRON FOUND

50' 546.69'

50' RIGHT-OF-WAY

ORANGE FLAGGING  
(POSSIBLE DRAINFIELD AREA)

UNIMPROVED ROAD

S78°48'36"W  
68.90'

S40°41'21"E 35.77'

IRON SET

END OF GRAVEL

EXISTING 50'  
RIGHT OF WAY  
(D.B. 142-54)

GRAVEL ROAD

TO STATE  
ROUTE 53

1) 12  
NA M. HARRY  
-773  
88

T.M. 18 ((A)) 13  
JAMES S. MUSSELMAN  
D.B. 374-115, 117 PLAT

T.M. 18 ((3)) 1  
J. TIMOTHY & GENEVIEVE P. KELLER  
D.B. 333-397, 402 PLAT  
D.B. 326-152  
D.B. 141-530 PLAT

PLAT SHOWING  
50' RIGHT-OF-WAY  
ON THE PROPERTY OF  
JAMES S. MUSSELMAN  
LOCATED OFF OF STATE ROUTE 53  
CUNNINGHAM MAGISTERIAL DISTRICT  
FLUVANNA COUNTY, VIRGINIA  
SCALE: 1"=100' DATE: AUGUST 24, 2012

FOR  
RICHARD T. & DONNA M. HARRY

Witness the following signatures and seals:

s/ Richard C. Payne (SEAL)  
t/ Richard C. Payne

s/ Geneva P. Payne (SEAL)  
t/ Geneva P. Payne

STATE OF VIRGINIA,  
COUNTY OF LOUISA, wo-wit:

I, Ira N. Bass, a Notary Public in and for the County aforesaid, State of Virginia, hereby certify that Richard C. Payne and Geneva P. Payne, his wife, whose names are signed to the foregoing writing, bearing date of April 21, 1967, have acknowledged the same before me in my County aforesaid.

My Commission expires 6/10/68.

Given under my hand this 21 day of April, 1967.

s/ Ira N. Bass  
Notary Public.

VIRGINIA: In the Clerk's Office of the Circuit Court of Fluvanna County April 29, 1967.

The foregoing deed was this day received in said office, and thereupon together with the certificate(s) thereto annexed, and the U. S. Documentary Stamps thereon, amounting to \$0.55 duly cancelled, admitted to record at 10:30 A.M.

Teste: Richard C. Payne Clerk.

ST. TAX \$30.00  
TR. FEE 1.00  
CK. FEE 7.00  
TOTAL \$38.00

90  
20  
5461

J. F. PACE, WIDOWER

TO DEED OF GIFT ✓

ALICE P. GIBSON, ET ALS

THIS DEED, made and entered into this 1st. day of May, 1967, by and between J. F. Pace, widower, party of the first part, and Alice P. Gibson, party of the second part, Robert Hansford Pace, party of the third part, Mattie P. Bunch, party of the fourth part, and Eddie Spradlin, Herbert Spradlin, Richard Spradlin and Wallace Spradlin, parties of the fifth part,

W I T N E S S E T H:

That for and in consideration of the sum of One Dollar (\$1.00) cash in hand paid the receipt of which is hereby acknowledged by the party of the first part, the said party of the first part doth hereby give, grant, transfer and convey, subject to a life estate reserved in himself, with SPECIAL WARRANTY OF TITLE unto the said Alice P. Gibson, party of the second part, the following described tract or parcel of land, to-wit:

All that certain tract or parcel of land, with improvements thereon, lying and being situate in the Cunningham Magisterial District of Fluvanna County, Virginia, containing two (2) acres, more or less, fronting on Virginia State Highway No. 53 at Cunningham, Virginia, and described as follows: Beginning at a corner at the well in front of Pace's Store, thence along the line of the Church property to Virginia State Highway No. 53, thence along the right-of-way of said Highway to a Barnes Lumber Corporation sign, thence a new line in a southerly direction to a post in a line fence separating this tract from a 19.66 acre tract belonging to the grantor, thence in easternly direction along the line between the two tracts to a corner with the Church property, thence along the line with the Church property to the well at the point of beginning, being part of the land conveyed to J. F. Pace by deed of Thomas H. Webb and wife, dated August 27, 1917, recorded in the Clerk's Office of the Circuit Court of Fluvanna County in Deed Book 10, page 10.

Original deed mailed to:  
J. F. Pace  
P.O. Box 21  
Cunningham, VA 22965  
5-5-67  
E. J. ...





