

AGENDA
FLUVANNA COUNTY BOARD OF SUPERVISORS
Regular Meeting
Circuit Courtroom
Fluvanna Courts Building
November 16th 2011
7:00 p.m.

1-CALL TO ORDER, PLEDGE OF ALLEGIANCE, MOMENT OF SILENCE

2-REPORTS

3-PUBLIC COMMENTS #1 (5 minutes each)

4-CONSENT AGENDA

- TAB G Minutes of October 19th, 2011 – Mary Weaver, Clerk to the Board of Supervisors
TAB H Budget Transfer for County Attorney Services – Mary Weaver, Clerk to the Board of Supervisors

5-ACCOUNTS PAYABLE

None

6-PUBLIC HEARING

- TAB I ZMP 11:02, Southern Land Holdings, LLC – B-C with amended proffers [An ordinance to amend the proffers associated with ZMP 01:01 of the Fluvanna County Zoning Map with respect to 1.43 acres of Tax Map 18B, Section 5, Parcel 1 to allow commercial greenhouses to the uses permitted by-right within the B-C, Business, Convenience District. The affected properties are located on the north side of Route 618 (Lake Monticello Road) approximately 1000 feet west of its intersection with Route 600 (South Boston Road). This property is located in the Palmyra Election District and is within the Rivanna Community Planning Area.] – Steven Tugwell, Planner
- TAB J CPA 11:01, Fluvanna County – Comprehensive Plan Text Amendment [Amend the Comprehensive Plan by adding text and illustrations to strengthen the County’s Urban Development Area (UDA) section which is required by Virginia Code 15.2-2223.1. The Comprehensive Plan discusses UDAs as required by the Code, but these provisions will provide more detail and clarity as to the County’s vision for its UDA. In addition to UDA amendments to the Land Use and Transportation chapters, the County is also incorporating Telecommunications Master Plan text into the Infrastructure chapter to more accurately reflect the County’s policies with regard to this critical infrastructure. This amendment to the Comprehensive Plan is necessary in order for the County to properly describe its current policies, and to more effectively enable the UDA vision and Telecommunications Master Plan. This proposed amendment to the plan not only furthers the vision and goals set forth previously, but is consistent with the other chapters of the plan.] – Andrew Pompei, Planner
- TAB K ZTA 11:03, Fluvanna County –Planned Unit Development (PUD) Ordinance - An ordinance to amend and reenact Article 14 of Chapter 22 of the Fluvanna County Code with respect to the regulation of Planned Unit Development (PUD) districts. The purpose of the proposed amendments is to ensure compliance with the State UDA legislation. These amendments are necessary to strengthen and improve the regulations already set forth in the Zoning Ordinance, and to promote higher quality and appropriately scaled PUD developments. – Andrew Pompei, Planner

7-PRESENTATIONS (normally not to exceed 10-minute limitation)

8-ACTION MATTERS

- TAB L Budget Appropriation to Carry-Over the School FY 11 Local Appropriation – Renee Hoover, Finance Director
- TAB M EST 07:02 Barber, Demolition of a Dwelling – Darren Coffey, Planning Director
- TAB Mc EPA Grant Signatory Authority – Pat Groot, Grant Administrator

9-UNFINISHED BUSINESS

10-NEW BUSINESS

11-PUBLIC COMMENT #2 (5 minutes each)

12- CLOSED MEETING

Discussion of personnel reporting directly to the Board.

13-ADJOURN

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.

**FLUVANNA COUNTY BOARD OF SUPERVISORS
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 dialogue 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 Board.
- Each speaker should clearly state his/her name and address.
- All comments should be directed to the Board.
- All questions should be directed to the Chairman. Members of the Board 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 call County staff prior to the public hearing.
- Speakers should be brief and avoid repetition of previously presented comments.

3) ACTION

At the conclusion of the public hearing on each item, the Chairman will close the public hearing. The Board will proceed with its deliberation 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.

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 Board wishes to debate the matter of the disorder or the bringing of order; the regular business may be suspended by vote of the Board 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 Administrator shall be the judge of such breaches, however, the Board 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.

MOTION: I move the minutes of the Fluvanna County Board of Supervisors for Wednesday, October 19th, 2011 be adopted.

AGENDA BOARD OF SUPERVISORS DATE: November 16th, 2011

SUBJECT: Adoption of the Fluvanna County Board of Supervisors regular meeting minutes.

RECOMMENDATION: Approval

TIMING: Routine

FISCAL IMPLICATIONS: None

POLICY IMPLICATIONS: None

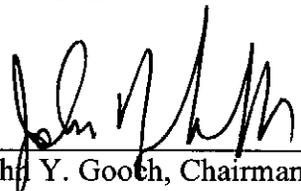
DISCUSSION: None

LEGISLATIVE HISTORY: None

Staff: Mary L. Weaver, Clerk to the Board of Supervisors

County Administrator's Use Only

Comments:



John Y. Gooch, Chairman

**FLUVANNA COUNTY BOARD OF SUPERVISORS
REGULAR MEETING MINUTES
Circuit Courtroom
Fluvanna Courts Building
October 19th, 2011
7:00 p.m.**

MEMBERS PRESENT: John Y. Gooch, Chairman
Shaun V. Kenney, Vice-Chairman
Donald W. Weaver
Mozell H. Booker
Joe Chesser
Chris Fairchild

ALSO PRESENT: Jay Scudder, County Administrator
Fred Payne, County Attorney
Jacqueline A. Meyers, CSA Program Manager
Betty Scholl, Administrative Assistant

CALL TO ORDER/PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE

Chairman Gooch called the meeting of October 19th, 2011, to order at 7:00 p.m., in the Circuit Courtroom of the New Courts Building in Palmyra, Virginia; and the Pledge of Allegiance was recited, after which, Chairman Gooch called for a moment of silence.

REPORTS

Mr. Jay Scudder, County Administrator, reported on the following topics:

- *Employee Picnic* – Thanked Board members, employees and Ashlawn Grill for a great employee picnic, special thanks to the treasurer's office for the wonderful door prizes.
- *Reassessment Kickoff Meeting* – first kickoff meeting held at Antioch Baptist Church, went well. Next meeting will be held October 24, 2011, at Beaver Dam Baptist Church.
- *Defoliation* – received a letter from the Department of Forestry stating there is no indication of Gypsy Moth defoliation in our area.
- *Walnut Trees* – individual is interested in harvesting the walnut trees on the property received in the Land Swap from Lake Monticello Owners Association.

PUBLIC COMMENTS #1

Chairman Gooch opened the floor for the first round of public comments.

- Adrian Miller, Rivanna District – addressed the Board in opposition to high density growth.
- Walter Salanova, Owner of Villa Nova's Pizza, Columbia District – addressed the Board in regards to rumors of a potential business tax.
- Jerry Patchen, Columbia District – addressed the Board in regards to the Economic Development Director position.
- Steve Brownell, Owner of Brownell Studios, Palmyra District – addressed the Board in regards to rumors of a potential business tax.

With no one else wishing to speak, Chairman Gooch closed the first round of public comments.

CONSENT AGENDA

The following items were pulled from the consent agenda:

- Budget Transfer for County Attorney Services
- Resolution Regarding the creation of the central Virginia Regional Jail Authority, Approving the Amended and Restated Regional Jail Agreement, the Issuance of the Authority's Revenue Obligations and Other Matters in Connection therewith.
- Authorize Execution of Agreement with the VA Department of Health for FY12 Appropriation.

Minutes of October 5, 2011

The minutes were deferred to the November 2, 2011 meeting for clarification of statement that Mr. Fairchild made during the discussion of the Economic Development Director Position.

Budget Transfer for County Attorney Services

Mr. Scudder clarified that this transfer is to cover costs of litigation and fees for the County Attorney's outside council.

MOTION:

Mr. Chesser moved to approve a budget transfer of \$5,598.45 from the BOS Contingency Fund (10086000-405870) to the County Attorney Services (10012500-403100), to cover legal services, in reference to Davenport & Company Litigation. Mr. Weaver seconded. The motion carried with a vote of 6-0. AYES: Gooch, Weaver, Booker, Kenney, Fairchild and Chesser. NAYS: None. ABSENT: None

Resolution Regarding the Creation of the Central Virginia Regional Jail Authority and Approving the Amended and Restated Regional Jail Agreement, the Issuance of the Authority's Revenue Obligations and Other Matters in Connection therewith.

Mr. Scudder addressed the Board in regards to this request.

MOTION:

Mr. Kenney moved to adopt the "Resolution of the Board of Supervisors of Fluvanna County, Virginia, regarding the Expansion Central Virginia Regional Jail", as attached. Mr. Weaver seconded. The motion carried with a vote of 6-0. AYES: Gooch, Weaver, Booker, Kenney, Fairchild and Chesser. NAYS: None. ABSENT: None

Authorize Execution of Agreement with the VA Department of Health for FY12 Appropriation.

Mr. Scudder explained this request is a technical amendment to the original request from the April BOS meeting. This is just a shifting of funds within the allocations; it doesn't change the amount of money that was approved previously.

MOTION:

Mr. Kenney moved to authorize the County Administrator to execute the Statement of Agreement between the VA Dept of Health and the County of Fluvanna for the FY12 appropriation of \$250,441. Mrs. Booker seconded. The motion carried with a vote of 6-0. AYES: Gooch, Weaver, Booker, Kenney, Fairchild and Chesser. NAYS: None. ABSENT: None

PUBLIC HEARING

None

PRESENTATIONS

CSA Fiscal Year 2011 Report – Dr. Jacqueline A. Meyers, CSA Program Manager, presented an overview of the budget, service distribution and the five year trend for CSA in FY 2011.

ACTION MATTERS

Economic Development Director Position – Mr. Jay Scudder, County Administrator, reviewed with the Board the Economic Development Director position description. The Board discussed the need for this position and what the focus would be.

MOTION:

Mr. Chesser moved to create an Economic Development Director position and transfer the funds, necessary for the implementation, from the Board's Contingency fund, in the amount of \$54,000, for the six months expense. Mr. Kenney seconded. The motion carried with a vote of 4-2. AYES: Gooch, Booker, Kenney, and Chesser. NAYS: Weaver and Fairchild. ABSENT: None

OLD BUSINESS

The Board discussed the following issues:

- Economic Development Commission Business and Strategic Plan

MOTION:

Mr. Kenney moved to adopt the Economic Development Commission Business and Strategic Plan. Mr. Chesser seconded. After some discussion, Mr. Kenney rescinded his motion to allow all Board members to read the plan and requested staff to have it on the agenda for the next meeting.

- Noise complaint on Central Virginia Sporting Clays [this matter was thoroughly investigated by the Zoning Administrator and there was no violation found].
- Scheduling a Budget Retreat [Chairman Gooch asked the Board members to write down what items they feel need to be looked and send them to him by close of business on Friday, October 28, 2011].

NEW BUSINESS

The Board discussed the following issues:

- Consent Agenda [definition – items that appear to be uncontroversial and do not require extensive discussion].
- Performance Evaluation for Mr. Scudder [what the process is].
- Dedication for the flag pole at the Sheriff's office [donated by Woodmen of the World].

PUBLIC COMMENTS #2

Chairman Gooch opened the floor for the second round of public comments.

- Bill Hughes, Cunningham District – addressed the Board in regards to the Economic Development Director position and offered a place to have the retreat.

With no one else wishing to speak, Chairman Gooch closed the second segment of public comments.

ADJOURN

MOTION:

At 9:21 p.m., Mr. Chesser moved to adjourn the meeting of Wednesday, October 19th, 2011. Mrs. Booker seconded. The motion carried, with a vote of 6-0. AYES: Chesser, Gooch, Kenney, Booker, Weaver and Fairchild. NAYS: None.
ABSENT: None

ATTEST:

FLUVANNA COUNTY BOARD OF SUPERVISORS

Mary L. Weaver, Clerk

John Y. Gooch, Chairman

DRAFT

RESOLUTION OF THE BOARD OF SUPERVISORS OF FLUVANNA COUNTY, VIRGINIA REGARDING THE EXPANSION OF THE CENTRAL VIRGINIA REGIONAL JAIL

WHEREAS, The Counties of Orange, Greene, Madison, Fluvanna and Louisa, Virginia (collectively, the “Participating Jurisdictions”), operate the Central Virginia Regional Jail (the “Regional Jail”) through a Regional Jail Authority, formed pursuant to Chapter 3, Article 5 of Title 53.1 of the Code of Virginia, 1950 as amended, and pursuant to an agreement dated February 12, 1988 and amended on November 19, 2008;

WHEREAS, by Resolution dated November 19, 2008, the Board of Supervisors of Fluvanna County considered plans by the Participating Jurisdictions to make improvements to the existing Regional Jail facilities, including the construction of an expansion thereto to provide 200 additional beds, and any necessary improvements to the existing facility to accommodate the additional bed space (the “Project”);

WHEREAS, by Resolution dated November 19, 2008, the preliminary estimate of the capital costs of the Project was Ten Million Dollars (\$10,000,000.00), and the Project is to be financed as provided in Chapter 3, Article 3.1 of Title 53.1 of the Code of Virginia, 1950, as amended (the “Act”).

WHEREAS, by Resolution dated November 19, 2008, to the extent there were other capital costs, including financing proposal costs, the County found that inclusion of such information was impractical;

WHEREAS, after consideration of the actual, approved planning study by the Virginia Board of Corrections on July 10, 2011, it has become apparent that the estimate of the capital costs of the Project are Sixteen Million, Nine Hundred and Twenty-Eight Thousand, Three Hundred and Eighty Two Dollars (\$16,928,382.00);

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS
OF FLUVANNA COUNTY, VIRGINIA**

That the revised preliminary estimate of the capital costs of the Project is Sixteen Million, Nine Hundred and Twenty-Eight Thousand, Three Hundred and Eighty Two Dollars (\$16,928,382.00), instead of Ten Million Dollars (\$10,000,000.00) as set forth in paragraph 5 of the Resolution dated November 19, 2008; and, the remaining provisions of that Resolution remain in effect and unchanged.

This Resolution shall take effect immediately.

The members of the Board of Supervisors of Fluvanna County, Virginia, voted as follows on the adoption of this Resolution on this 19th day of October, 2011.

<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstentions</u>
Booker			
Chesser			
Fairchild			
Gooch			
Kenney			
Weaver			

John Y. Gooch, Chairman

ATTEST:

Mary L. Weaver,
Clerk to the Board of Supervisors

MOTION: I move to approve a budget transfer of \$2,923.70 from the BOS Contingency Fund (10086000-405870) to the County Attorney Services (10012500-403100) to cover legal services in reference to Davenport & Company Litigation.

AGENDA BOARD OF SUPERVISORS DATE: November 16th, 2011

SUBJECT: Budget Transfer for County Attorney Services

RECOMMENDATION: Staff recommends utilizing the BOS Contingency Fund for payment of this invoice.

TIMING: Routine

FISCAL IMPLICATIONS: If this request is approved, the BOS Contingency Fund would be reduced to \$ 24,137.85.

POLICY IMPLICATIONS: This action is consistent with county policy.

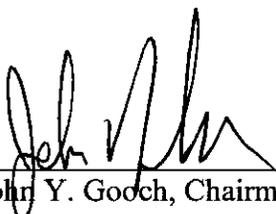
DISCUSSION:

Staff: Mary L. Weaver, Clerk to Board of Supervisors

Attachments: Eckert Seaman's Cherin & Mellott, LLC Invoice

Copy: Renee Hoover, Finance Director

County Administrator's Use Only



John Y. Gooch, Chairman

Payne & Hodous, L.L.P.

Attorneys at Law

414 East Jefferson Street
Charlottesville, Virginia 22902

Frederick W. Payne
Robert P. Hodous
Donna R. DeLoria
William W. Tanner

Telephone: 434-977-4507
Facsimile: 434-977-6574

Jessica F. Phillips
Kristina M. Hofmann

October 26, 2011

Mr. William P. Scudder, County Administrator
County of Fluvanna
P. O. Box 540
Palmyra, Virginia 22963

Re: Fluvanna County, Virginia v. Davenport & Company/Securities Work

Dear Mr. Scudder:

Enclosed please find an invoice from Eckert Seaman's Cherin & Mellott, LLC, representing legal services rendered through September 2011 in connection with the above-referenced matter. The invoice should be paid in due course.

If you have any questions, or need anything additional from me at this time, please let me know.

Sincerely yours,



Rachel B. Gent
Paralegal

Sender's Email: rbgent@paynehodous.com

Enclosure

Jillian R. Voss
804.788.7769 (direct)
804.698.2950 (fax)
jvoss@eckertseamans.com

October 24, 2011

Confidential Attorney/Client Communication

Fluvanna County, Virginia
c/o Frederick W. Payne, Esq., County Attorney
Payne & Hodous, LLP
414 East Jefferson Street
Charlottesville, VA 22902-5109

Re: *Fluvanna County, Virginia v. Davenport & Company/ Securities Work*

Dear Mr. Payne:

We appreciate the opportunity to provide legal services to Fluvanna County, Virginia. Enclosed please find Eckert Seamans' invoice for professional services rendered through September 2011 for the above-referenced matter. It would be appreciated if you would place this invoice in line for payment as soon as possible.

Thank you for your assistance in this matter. Please do not hesitate to let me know if you have any questions.

Sincerely,


Jillian R. Voss
Legal Secretary to
Douglas M. Palais

Enclosure

ECKERT SEAMANS CHERIN & MELLOTT, LLC

ATTORNEYS AT LAW

CONFIDENTIAL ATTORNEY/CLIENT COMMUNICATION
FLUVANNA COUNTY, VA
C/O FREDERICK W. PAYNE, ESQ., COUNTY ATTORNEY
PAYNE & HODOUS, LLP
414 EAST JEFFERSON STREET
CHARLOTTESVILLE, VA 22902-5109

MATTER: 302880-00001

INVOICE: 781416

OCTOBER 20, 2011

PAYMENT DUE WITHIN 30 DAYS
OF INVOICE DATE

REGARDING: FLUVANNA COUNTY, VA V. DAVENPORT & COMPANY/SECURITIES WORK

TOTAL FEES FOR PROFESSIONAL SERVICES THROUGH:	09/30/11	\$2,341.00
TOTAL EXPENSE ADVANCES MADE TO YOUR ACCOUNT THROUGH:	09/30/11	\$582.70
TOTAL BILL AMOUNT FOR INVOICE # 781416		\$2,923.70

PLEASE INCLUDE THE INVOICE # ON YOUR REMITTANCE AND MAIL TO:

ECKERT SEAMANS CHERIN & MELLOTT, LLC
P.O. BOX 643187
PITTSBURGH, PA 15264-3187

ECKERT SEAMANS CHERIN & MELLOTT, LLC

ATTORNEYS AT LAW

FLUVANNA COUNTY, VA
 RE: FLUVANNA COUNTY, VA V. DAVENPORT &
 COMPANY/SECURITIES WORK
 OCTOBER 20, 2011
 PAGE: 2

CLIENT: 302880
 MATTER: 302880-00001
 INVOICE: 781416 DMP

DATE	ATTY	DESCRIPTION	HOURS	AMOUNT
09/01/11	DMP	REVISE COMPLAINT AND DRAFT AND REVIEW E-MAILS TO AND FROM COUNSEL REGARDING SAME	1.00	300.00
09/01/11	WDL	REVIEW AND REVISE DRAFT COMPLAINT	0.80	188.00
09/03/11	DMP	RESEARCH STATUTE OF LIMITATIONS ISSUES (1.0); DRAFT AND REVIEW E-MAILS TO AND FROM COUNSEL REGARDING REVISIONS TO COMPLAINT AND STATUTE OF LIMITATIONS ISSUES AND REVIEW REVISIONS (.4)	1.40	420.00
09/04/11	WDL	REVISE COMPLAINT; E-MAIL EXCHANGES AND CONFERENCES WITH FRED PAYNE AND D. PALAIS REGARDING SAME	0.80	188.00
09/05/11	WDL	REVISE COMPLAINT FOR FILING; E-MAIL EXCHANGES WITH FRED PAYNE REGARDING FINAL EDITS AND SERVICE OF PROCESS	0.30	70.50
09/06/11	WDL	FINALIZE COMPLAINT; DRAFT COVER SHEET; DRAFT COVER LETTER REQUESTING SERVICE OF PROCESS AND EXPLAINING REDUCED FILING FEE FOR COUNTY AS A PARTY	0.40	94.00
09/07/11	WDL	TELEPHONE CONFERENCE WITH CLERK OF COURT REGARDING FILING FEES FOR COUNTY AS PLAINTIFF AND REFUND; EMAIL TO FRED PAYNE AND D. PALAIS REGARDING SAME	0.20	47.00
09/12/11	DMP	REVIEW AFFIDAVIT OF SERVICE	0.10	30.00
09/13/11	DMP	REVIEW STATUTES OF LIMITATIONS RESEARCH AND RELATED E-MAILS	0.30	90.00
09/13/11	WDL	REVIEW VIRGINIA SECURITIES ACT STATUTE OF LIMITATIONS AND CONTINUING SERVICES RESEARCH MEMORANDUM	0.30	70.50
09/21/11	DMP	REVIEW MEDIA COVERAGE AND DRAFT AND REVIEW E-MAILS TO FRED PAYNE REGARDING SAME	0.20	60.00
09/21/11	WDL	REVIEW PRESS RELEASES AND MEDIA COVERAGE OF LITIGATION	0.10	23.50
09/23/11	DMP	DRAFT AND REVIEW E-MAILS TO AND FROM COUNSEL REGARDING PRESS COVERAGE AND RELATED ISSUES	0.20	60.00

ECKERT SEAMANS CHERIN & MELLOTT, LLC

ATTORNEYS AT LAW

FLUVANNA COUNTY, VA
 RE: FLUVANNA COUNTY, VA V. DAVENPORT &
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09/30/11	WDL	REVIEW ANSWER, DEMURRER, PLEA IN BAR AND DISCOVERY REQUESTS FROM DAVENPORT	1.70	399.50
		TOTAL FEES:		\$2,341.00

TIME SUMMARY

TIMEKEEPER	HOURS	RATE	AMOUNT
DOUGLAS M PALAIS	4.20	300.00	1,260.00
WILLIAM D. LEDOUX, JR.	4.60	235.00	1,081.00

TOTAL FEES FOR PROFESSIONAL SERVICES RENDERED THROUGH: 09/30/11 8.80 HRS \$2,341.00

DESCRIPTION OF EXPENSE ADVANCES:

DESCRIPTION	AMOUNT
DELIVERY SERVICE - - VENDOR: DOWNTOWN DIRECT LLC - DELIVER COMPLAINT & SUMMONS	150.00
FILING FEE - - VENDOR: FLUVANNA CIRCUIT COURT FILE COMPLAINT	319.00
DELIVERY SERVICE - - VENDOR: DOWNTOWN DIRECT LLC -SERVE SUMMONS ON EDDINS AT DEVNPORT	30.00
DOCUMENT REPRODUCTION	83.70
TOTAL EXPENSE ADVANCES:	\$582.70

TOTAL BILL: \$2,923.70

ECKERT SEAMANS CHERIN & MELLOTT, LLC

ATTORNEYS AT LAW

FLUVANNA COUNTY, VA
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ECKERT SEAMANS CHERIN & MELLOTT, LLC

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DOCUMENT REPRODUCTION	83.70
TOTAL EXPENSE ADVANCES:	\$582.70

TOTAL BILL: \$2,923.70



COUNTY OF FLUVANNA

"Responsive & Responsible Government"

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

STAFF REPORT

To: Fluvanna County Board of Supervisors
Case Number: ZMP 11:02
Tax Map: Tax Map 18B, Section 5, Parcel 1

From: Steve Tugwell
District: Palmyra
Date: November 16, 2011

General Information: This request is to be heard by the Board of Supervisors on Wednesday, November 16, 2011 at 7:00 pm in the Circuit Courtroom in the Courts Building.

Owner/Applicant: Southern Holdings, LLC

Representative: Southern Holdings, LLC

Requested Action: To amend the proffer associated with ZMP 01:01 of the Fluvanna County Zoning Map with respect to approximately 1.43 acres of Tax Map 18B, Section 5, Parcel 1 to allow commercial greenhouses to the uses permitted by-right within the B-C, Business, Convenience District. (Attachment A)

Location: The affected property is located on the north side of Route 618 (Lake Monticello Road) approximately 1000 feet west of its intersection with Route 600 (South Boston Road). (Attachment B)

Existing Zoning: B-C, Business, Convenience [with one (1) proffer]

Proposed Zoning: B-C, Business, Convenience with an amended proffer

Existing Land Use: Professional office, commercial greenhouse

Planning Area: Rivanna

Adjacent Land Use: Adjacent properties are zoned A-1, Agricultural, General to the west, B-C, Business, Convenience, to the east, and R-4, Residential, Limited to the north of Tax Map Parcel 18B-5-1.

Zoning History: A Special Use Permit (SUP 87:05) was approved in August 1987 for a temporary professional office; SUP 90-10 was approved in December 1990 for professional offices; SUP 91-01 was approved

in June 1991 for an office in an existing building; SUP 92-06 was approved in August 1992 for offices; Rezoning request ZMP 92-01 was denied in August 1992 for A-1 to B-1; Rezoning request ZMP 01-01 was approved in March 2001 for R-4 to B-C , with proffers.

Existing Proffer:

Limit the uses to business and professional offices with the only other possible use for the property would be veterinary clinic/boarding which may require a special use permit. All other uses would be prohibited. (Attachment C)

Orginally amended proffer (submitted on 7/12/2011):

Limit the uses to business and professional offices, ~~with the only other possible uses for the property would be~~ veterinary clinic/boarding which may require a special use permit, *commercial greenhouses, and neighborhood convenience retail store*. All other uses would be prohibited. (Attachment D)

Revised amended Proffer (submitted on 10/27/2011):

Limit the uses to business and professional offices, ~~with the only other possible uses for the property would be~~ veterinary clinic/boarding which may require a special use permit, *and commercial greenhouses*. All other uses would be prohibited. (Attachment E)

Comprehensive Plan:

Land Use Chapter:

The Comprehensive Plan designates this property as within the Rivanna Community Planning Area. According to this chapter, *“additional services and infrastructure are needed to accommodate more growth”*. Additionally, *“medium and small commercial businesses, along with office, civic, and residential uses, combine to form a series of neotraditional developments that are interconnected with surrounding development”*. This is a heavily populated area of the county, with a variety of retail establishments designed to support the existing residential community.

Economic Development:

The 2009 Comprehensive Plan states that Goal 2 under the Course of Action Section is *“to implement the county’s community planning areas, as shown on the Future Land Use Map”*. The Rivanna Community Planning Area is the most developed planning area in the county, and represents a good mixture of residential and commercial uses to sustain the citizenry. A variety of retail, food service, and professional service oriented businesses are located in and around the Rivanna CPA.

Analysis:

There is one (1) proffer attached to the original rezoning on this property (ZMP 01-01). The applicant is proposing to amend the proffer to add commercial greenhouses and neighborhood convenience retail store as by-right uses, as allowed in the B-C, Business, Convenience zoning district. Around June of this year, staff received a complaint with regard to a mulch business that had begun operations at this location, after having been formerly located further west along Route 618, at the Crofton Plaza shopping center.

Staff notified the applicant that the proffered condition associated with the property's zoning classification, does not allow for a mulching business, a commercial greenhouse, or similar type of activity. Subsequently a letter of violation dated July 7, 2011 was issued, which led to the current application to amend the proffer. The mulch business has continued to operate since the notice of violation with the County's permission pending final action on this application. In addition staff has received complaints with regard to unauthorized signage at this property, for which two letters of violation were issued. As of October 12th, all unpermitted signage had been removed. (Attachment F)

It should be noted that Fire Chief Mike Brent met with the applicant on-site on October 6th, and determined that the defensible space around both the mulch pile and the office building is adequate. At the August 11th TRC meeting, Mr. Brent had inquired about the location of the mulch piles, and stated they would need to be located in such a way as to provide a defensible space that is not isolated and would be easy to access. (Attachment G)

From a safe and convenient access perspective, staff is concerned about the location of this type of business, even though VDOT has stated they believe that sight distance is adequate. Several site visits revealed questionable visibility with regard to ingress and egress, particularly when the type of trucks and equipment associated with this business are considered. There appears to be a substantial sight deficiency looking east along Route 618, especially when exiting. The Planning Commission discussed this issue, and they are comfortable with the Virginia Department of Transportation's assessment that the sight distance is adequate.

Neighborhood Meeting:

With the exception of the applicant, there were no attendees at the August 10, 2011 Neighborhood meeting.

Technical Review Committee:

At the August 11, 2011 Technical Review Committee meeting, The Fire Department inquired about the location of the mulch piles, and that they would need to be located in such a way as to provide a defensible space that is not isolated and would be easy to access;

The Health Department asked if the existing building will be retained as a business, and commented that it is served by public water and sewer;

VDOT commented that the sight distance is adequate in both directions and the entrance is large enough to accommodate the size of equipment entering the property. (Attachment H)

Planning Commission:

The Planning Commission considered this request at their October 26th meeting. The text in the applicant's first amended proffer read, "Limit the uses to business and professional offices, ~~with the only other possible uses for the property would be~~ veterinary clinic/boarding which may require a special use permit, *commercial greenhouses, and neighborhood convenience retail store*. All other uses would be prohibited".

During the public hearing, three citizens spoke on this application, and all were in support. In consideration of the proposed amended proffer as written, the Commission expressed concerns over the possibility of a convenience store at this site in the future, and the impacts that type of use could have on the area. The applicant stated that it is not their intention to ever use the property as a convenience store, but rather they wanted to ensure that the incidental sales associated with the greenhouse use would be permitted, and staff clarified that they would. The Commission inquired to staff as to whether or not the applicant could re-amend the proffer at the meeting for their consideration, and Mr. Payne stated they could not. Mr. Payne notified the Commission that a proffer statement must be voluntary by the applicant and cannot be compelled or modified by a third party. Upon hearing this, the applicant said he would re-amend his proffer and delete the text with regard to *neighborhood convenience retail store*. Mr. Guskind re-amended his proffer and submitted it to planning staff on October 27th. The re-amended proffer is restated excluding "*and neighborhood convenience retail store*".

The Commission also discussed the property's sight distance, and deferred to VDOT's determination that the sight distance is adequate. After considerable discussion with regard to sight distance and the possible future use of the property if the amended proffer was approved as submitted, the Commission recommended denial by a vote of 5-0-1. Mr. Halstead moved to recommend denial, and Mr. Gaines seconded, and Mr. Bibb abstained. The Commission was unanimous, however, in stating that they would have approved the proposed proffer amendment had the "*neighborhood convenience retail*" portion of the text been excluded.

Conclusion:

While the application appears to be in general conformance with the Comprehensive Plan, given the site location and nature of the business, it appears that amending the proffer associated with this property's zoning could impact the aesthetics, traffic pattern, and safety considerations of the immediate area. There is the potential to exacerbate existing traffic concerns along this segment of Route 618, thus compromising the safety of motorists and nearby residents.

When reviewing this proffer amendment request, the Board should take into consideration how this request does or does not meet the intent of the Comprehensive Plan, and the intent of the originally approved rezoning (ZMP 01:01). Furthermore, if the Board finds that amending this proffer is appropriate, they may want to consider the potential impacts to area traffic and visual aesthetics.

Suggested Motion:

I move that the Board of Supervisors approve/deny ZMP 11:02, a request to amend ZMP 01:01 with respect to approximately 1.43 acres of Tax Map 18B, Section 5, Parcel 1.

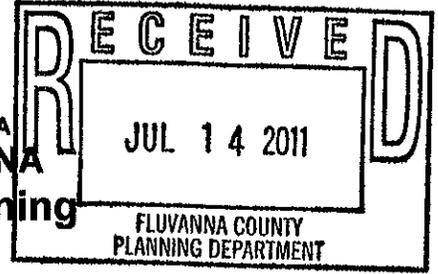
Attachments:

- A – Application, applicant’s letter, sketch plan and APO letter
- B – Aerial Vicinity Map
- C – Rezoning case number ZMP 01:01 Board of Supervisors extract
- D – Originally amended proffer submitted on 7/12/2011
- E - Revised amended proffer submitted on 10/27/2011
- F – TRC comment letter, and email from VDOT
- G – Notice of violation letters
- H – Email from Fire Chief Mike Brent
- I – Proposed Ordinance

Copy: File



COMMONWEALTH OF VIRGINIA
COUNTY OF FLUVANNA
Application for Rezoning



Owner of Record: Southern Land Holdings LLC
 E911 Address: 3647 Lake Monticello Rd Palmyra VA
 Phone: 434-591-1210 (O) Fax: 434-591-1210
 Email: Stu@Southernhomebuilders.net

Applicant of Record: Stuart Gaskind (Southern Land Holdings LLC)
 E911 Address: 3647 Lake Monticello Rd Palmyra VA
 Phone: 434-566-5421 Fax: 434-591-1210
 Email: Stu@Southernhomebuilders.net

Representative: Stuart Gaskind
 E911 Address: 3647 Lake Monticello Rd Palmyra VA
 Phone: 434-566-5421 Fax: 434-591-1210
 Email: Stu@Southernhomebuilders.net

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: _____

Tax Map and Parcel(s): ~~183-5-1~~ 183-5-1
Acreage: 1.93 **Zoning:** B-C

Deed Book Reference: _____
Deed Restrictions? No Yes (Attach copy)

Location of Parcel: Lake Monticello Rd 1/4 mile from RT #600 + 3/4 mile from main gate to Lake Monticello
Requested Zoning: _____ **Proposed use of Property:** add Greenhouses Commercial + Retail store neighborhood convenience

Affidavit to Accompany Petition for Rezoning

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.

I/We, being duly sworn, depose and say that we are Owner/Contract Owner of the property involved in this application and that we have familiarized ourselves with the rules and regulations of the Zoning Ordinance with respect to preparing and filing this application, and that the foregoing statements and answers herein contained and the information on the attached map to the best of our ability present the argument on behalf of the application herewith requested and that the statements and information above referred to are in all respects true and correct to the best of our knowledge.

Date: 7/12/11 Signature of Owner/Applicant: [Signature] managing member
 Subscribed and sworn to before me this _____ day of _____, 20____ Register # _____
 My commission expires: _____ Notary Public: _____

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>7/14/2011</u>	Pre-Application Meeting: <u>CHL # 155</u>	PH Sign Deposit Received: <u>7/14/2011</u>	Application #: <u>ZMP 11:02</u>
\$1,000 plus \$50 for per acre plus mailing costs fee paid: Mailing Costs: \$20.00 Adjacent Property Owner (APO) after 1st 15, Certified			
Proffer or Master Plan Amendment: \$750.00 plus mailing costs			
Election District:	Planning Area:		
Public Hearings			
Planning Commission		Board of Supervisors	
Advertisement Dates: <u>15 & 22 Sep 11</u>	Advertisement Dates:		
APO Notification:	APO Notification:		
Date of Hearing: <u>28 Sep 2011</u>	Date of Hearing		
Decision:	Decision:		

Approved for Recordation _____ Date _____

Approved LMOA _____ Date _____

Approved LMSC _____ Date _____

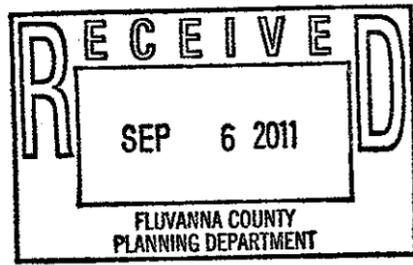
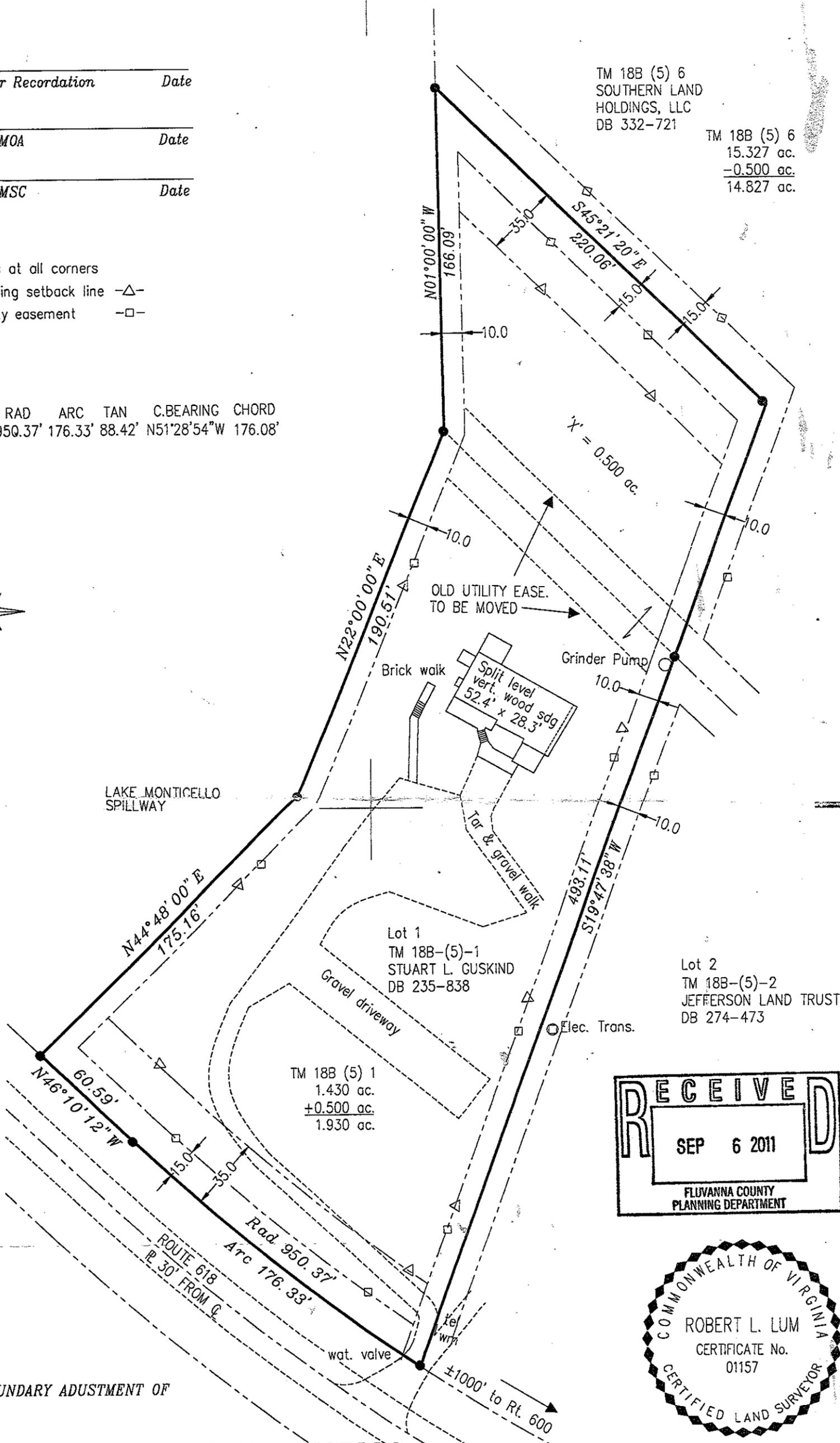
NOTE: Irons at all corners
Building setback line -△-
Utility easement -□-

NO DELTA RAD ARC TAN C.BEARING CHORD
1 1037'50" 950.37' 176.33' 88.42' N51°28'54"W 176.08'



TM 18B (5) 6
SOUTHERN LAND
HOLDINGS, LLC
DB 332-721

TM 18B (5) 6
15.327 ac.
-0.500 ac.
14.827 ac.



PLAT SHOWING BOUNDARY ADJUSTMENT OF
TAX MAP 18 (5) 1

LOT 1 PHASE XIII, LAKE MONTICELLO

CUNNINGHAM DISTRICT, FLUVANNA COUNTY, VIRGINIA

SCALE 1" = 50' DATE: AUGUST 14, 2001

5-XIII.dwg

LUM'S LAND SURVEYS, INC.

P.O. BOX 154 PALMYRA, VA. 22963-0154

PHONE: (804) 589-8395

Memorandum

DATE: November 2, 2011
RE: APO'S for **ZMP 11:02** Public Hearing Letters
TO: Darren Coffey
FROM: Lauren Ryalls

Please be advised the attached letter went out to the attached list of Adjacent Property Owners for the **November 16, 2011** Board of Supervisors meeting.



COUNTY OF FLUVANNA

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

NOTICE OF PUBLIC HEARING

November 2, 2011

«Title» «First_Name» «Last_Name»
«Company_Name»
«Address_Line_1»
«City», «State» «ZIP_Code»
TMP# «TMP»

Re: Public Hearing on ZMP 11:02

Dear «Title» «Last_Name»«Company_Name»:

This letter is to notify you that the Fluvanna County Board of Supervisors will hold a public hearing on the above referenced item on **Wednesday, November 16, 2011 at 7:00 PM** in the Circuit Court Room at the Fluvanna County Courts Building in Palmyra, VA. The request is described as follows:

ZMP 11:02, Southern Land Holdings, LLC – B-C with amended proffer - An ordinance to amend the proffer associated with ZMP 01:01 of the Fluvanna County Zoning Map with respect to 1.43 acres of Tax Map 18B, Section 5, Parcel 1 to allow commercial greenhouses to the uses permitted by-right within the B-C, Business, Convenience District. The affected properties are located on the north side of Route 618 (Lake Monticello Road) approximately 1000 feet west of its intersection with Route 600 (South Boston Road). This property is located in the Palmyra Election District and is within the Rivanna Community 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 (8:30 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,

Steve Tugwell
Planner

4 Parcels Selected

Wednesday October 12, 2011



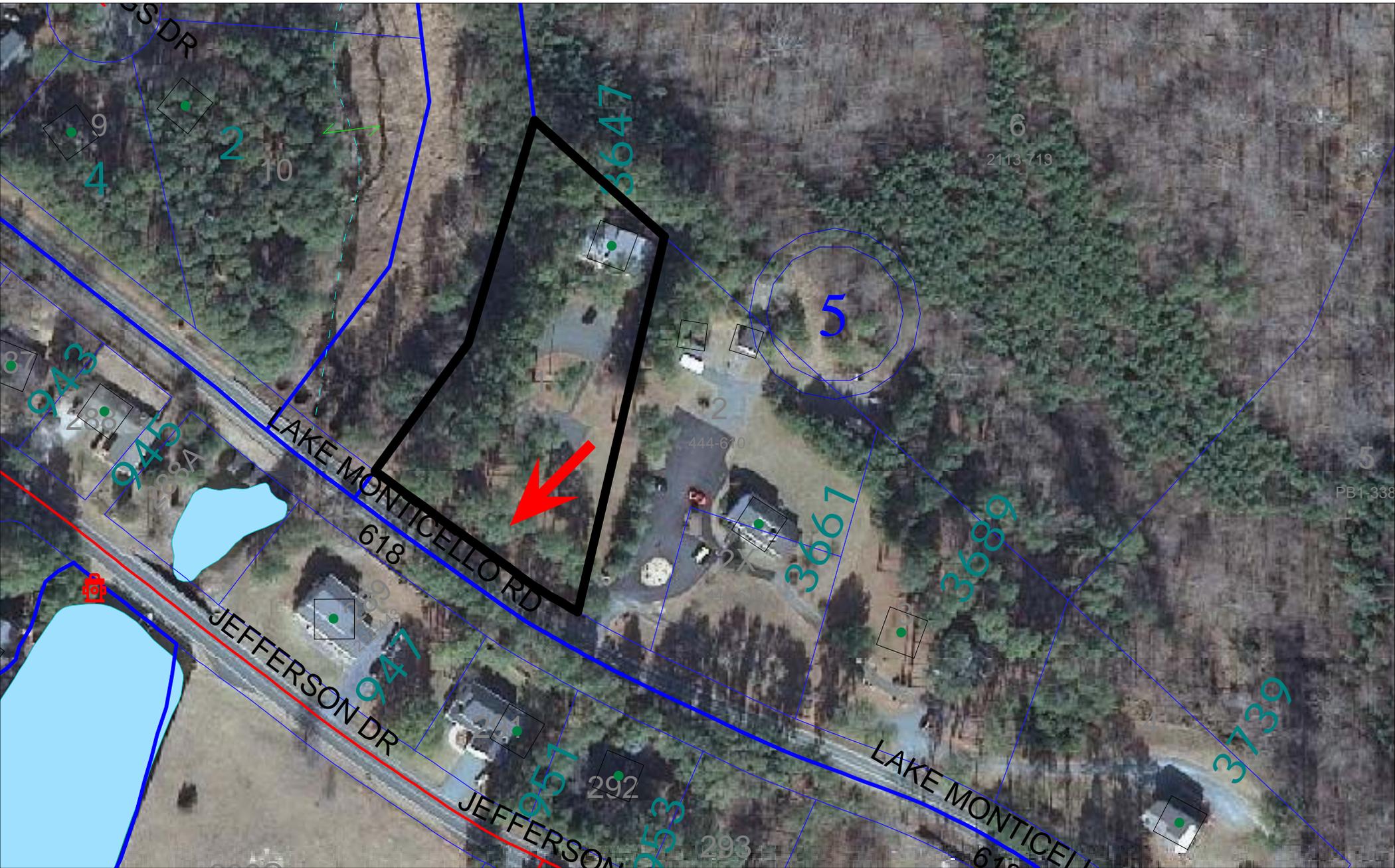
Map	Parcel ID	Owner's Name
<input type="radio"/>	9 A 2	LAKE MONTICELLO HOME OWNER'S
<input type="radio"/>	18B 5 1	SOUTHERN LAND HOLDINGS LLC
<input type="radio"/>	18B 5 2	MORACE, THOMAS R & GAIL L
<input type="radio"/>	18B 5 6	SOUTHERN LAND HOLDINGS LLC ET AL

Click on the Globe in a row to show that parcel on the map page. Click on the Parcel ID number to show the detail information of that parcel. Click on an Owner's Name to show a list of all properties of that owner.

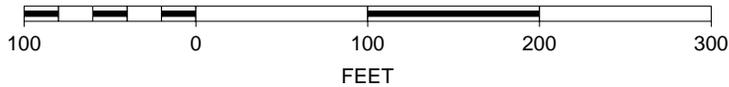
[Close](#)

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SCALE 1 : 1,335



FLUVANNA COUNTY
Post Office Box 299
Palmyra, Virginia 22963
804-589-3138 (Phone) 804-589-4976 (Fax)

TO: G. Cabell Lawton, Director of Planning & Development
COPY:
DATE: March 22nd 2001

*****E X T R A C T*****
(from the Draft Minutes)

At a regular meeting of the Fluvanna County Board of Supervisors held March 21st 2001 in the Board of Supervisors Meeting Room, Palmyra, Virginia.

Present: Andrew M. Sheridan, Jr., Chairman; Stafford M. Pace, Vice-Chairman; Cecil L. Cobb; Leonard F. Gardner and Donald W. Weaver.

Absent: None

* * * * *

ZMP 01:01/Request by Mr. Stuart Guskind for a conditional change in zoning district classification for tax map parcel 18B(5)1 from R-4 Residential to B-C Business Convenience

This is a proposed conditional change in zoning district classification for a parcel located on the north side of Rt. 618 approximately 1000 feet west of its intersection with Rt. 600 consisting of 1.930 acres.

Cabell Lawton, Director of Planning & Development, introduced this issue.

Stuart Guskind addressed the Board in his behalf.

Chairman Sheridan opened the public hearing.

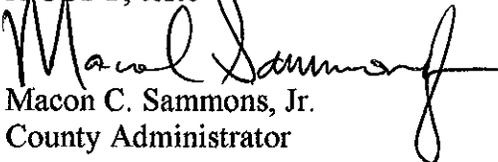
With no one wishing to speak, Chairman Sheridan closed the public hearing.

MOTION:

- 1) Mr. Gardner moved to approve ZMP 01:01 which consists of the rezoning of tax map parcel 18B(5)1 from R-4 Residential to B-C Convenience with the following proffer: "Limit the uses to business and professional offices with the only other possible use for the property would be Veterinary Clinic/boarding which may require a special use permit. All other uses would be prohibited." Mr. Pace seconded. The motion carried with a vote of 5-0. AYES: Cobb, Gardner, Pace, Weaver and Sheridan. NAYS: None.

* * * * *

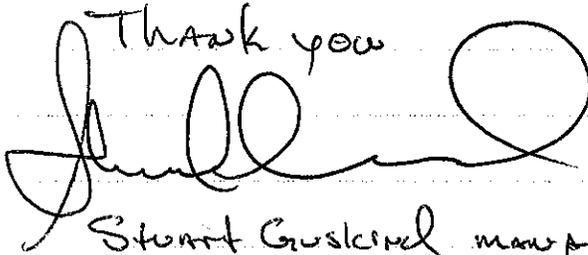
A COPY, teste


Macon C. Sammons, Jr.
County Administrator

To whom it may concern,

We wish to add to our existing Right of uses at
TM Parcel 18B-1 Greenhouse (commercial) and Retail
neighborhood convenience to the uses allowable on the above
mentioned property which is already zoned B-C.

Thank you



Stuart Gusler managing member

Southern Land Holdings LLC

7/12/11

To whom it may concern,

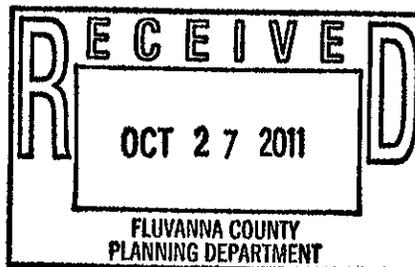
We wish to add to our existing Right of uses at
T M Parcel 18B-1 Greenhouse (Commercial) to the uses
allowable on the above mentioned property which is already
zoned B-C.

Thank you in advance


Stuart Gosling
Southern Hand Holdings LLC

Managing member

10/27/11





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August 11, 2011

Southern Land Holdings, LLC (Mr. Stuart L. Guskind)
 3647 Lake Monticello Road
 Palmyra, VA 22963

**Re: ZMP 11:02 – ZMP 01:01 Rezoning Proffer Amendment
 Tax Map 18B-5-1**

August 11, 2011 TRC Comments

Dear Mr. Guskind:

The following comments are the result of the Technical Review Committee meeting. Comments are outlined below:

1. Gary Rice from the Health Department inquired if the existing building will be retained as a business, and commented that it was served by public water and sewer;
2. The Fire Department inquired about the location of the mulch piles, and they would need to be located in such a way as to provide a defensible space that is not isolated and would be easy to access;
3. VDOT commented that the sight distance was okay in both directions and the entrance was large enough for the size of equipment entering the property.
4. Planning staff will need 20 11x17 revised copies of the plot plan/site plan that identifies the site, where the mulch business activity will take place, locations of the mulch piles, mulch business employee parking area, whether or not any new site lighting is proposed and storage areas; also the site plan should have a note that gives the hours of operation for the mulch business; also additional screening may be required between Route 618 and the front yard area where the mulch piles and mulch business related trucks and vehicles are located and stored. The provision of these details at this stage will help expedite the review and approval of the proffer amendment process, as well as the site plan process if and when the amendment is approved.

Please provide a minimum of 20 11"x 17" copies of the revised sketch plans identifying the items in comment # 4, and any other materials or documentation that is to be included in the Planning Commission packet by **Friday, August 26, 2011**. Submitting revisions by this deadline will place your request on the **September 28, 2011** Planning Commission agenda.

If you have any questions or need additional information, please contact me at 434-591-1910.

Sincerely,



Steve Tugwell

Planner

Dept. of Planning & Community Development

cc: File

StevenTugwell

From: Goodale, James E. [James.Goodale@VDOT.virginia.gov]**Sent:** Thursday, August 11, 2011 2:05 PM**To:** StevenTugwell**Subject:** RE: 8/11/11 TRC meeting packet

Steve here are my comments, sorry I missed the meeting.

1. John Zehler, EST 11:01- No comments.
2. Southern Land Holdings LLC, ZMP 11:02 – Sight distance was okay in both directions and the entrance was large enough for the size of equipment entering the property.
3. Fluvanna County, ZTA 11:02 – No comments.

*James E. Goodale
Highway Permits & Subdivision
Zions Crossroads South
P.O. Box 1017
Troy, VA. 22974
(434) 589- 2358*

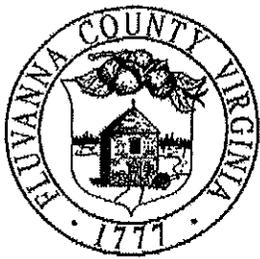
From: StevenTugwell [mailto:stugwell@co.fluvanna.va.us]**Sent:** Tuesday, August 02, 2011 4:06 PM**To:** mkbrent7@gmail.com; Rice, Gary (VDH); Goodale, James E.**Cc:** Roger Black; Andy Wills; Tecastillo@aquaaamerica.com; Sam Babbitt; Donald Gaines; Darren Coffey**Subject:** 8/11/11 TRC meeting packet

Dear TRC Members:

As we did for the June TRC meeting, we are sending you this month's TRC packet electronically in an effort to move it forward. Your feedback is valuable, so if you find this form of receiving the packets and information easier, or if you have comments on how it could be improved- please let us know!

Thanks, and I look forward to seeing you all on the 11th!

-Steve



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Jay Scudder
County Administrator
jscudder@co.fluvanna.va.us

Mary L. Weaver
Clerk to the Board
mweaver@co.fluvanna.va.us

CERTIFIED MAIL

July 7, 2011

Southern Land Holdings LLC
3647 Lake Monticello Road
Palmyra, Virginia 22963
Attention: Mr. Stuart L. Guskind

Re: TMP 18B-(5)-1 (address No.3647 Lake Monticello Road),
Violation of Zoning Map Amendment (ZMP).

Dear Sir,

Fluvanna County is devoted to providing its citizens with a healthy, safe, and enjoyable county in which to live and work. The Fluvanna County Planning & Community Development Department has been notified of a possible code violation on the above referenced property. Our goal is to have this violation corrected in a way as not to unduly burden you, but to satisfy the County Code.

On March 21, 2001, the Fluvanna County Board of Supervisors approved a request for a proposed conditional change in the zoning district classification for the parcel (referenced above) as contained in ZMP 01:01 and notification of that fact was sent by letter dated March 22, 2001 (see attached copy). This approval consisted of the rezoning of this parcel from R-4 Residential to B-C convenience with the following proffer:

"To limit the uses to business and professional offices with the only other possible use for the property would be Veterinary Clinic/boarding which may require a special use permit. All other uses would be prohibited."

During site inspections on June 14, 2011 and June 28, 2011, I noted that a new business was being operated on this property, that being "Monticello Mulch & Lawn Care Services Co." The services listed on the internet web site for this business do not conform to the criteria as set forth in the proffer (listed above) and therefore, this property is in violation of the Fluvanna County Zoning Ordinance. In order to achieve compliance with the Fluvanna County Zoning Ordinance, this property will need to be rezoned to permit this use or this business will need to cease operations immediately.

Under provisions of 15.2-2311 of the Code of Virginia, this letter represents an interpretation of the Fluvanna County Zoning Ordinance and anyone aggrieved by this interpretation may appeal to the Fluvanna County Board of Zoning Appeals within thirty days of receipt of this letter. The applicable fee for appeal is one hundred and twenty five dollars (\$ 125.00). Information regarding the appeal process is located in the **Fluvanna County Zoning Ordinance Article 18, Sec. 22-18.**

If you could contact me to discuss the proposed course of corrective action I am confident that we can resolve this violation in a timely manner. You may contact me at 434-591-1910 or smiller@co.fluvanna.va.us at your convenience. Thank you for your cooperation regarding this matter.

Sincerely,

Scott B. Miller
Code Compliance Officer

attachment
cc: Darren Coffey, Planning Director
cc: William S. Tugwell, Planner



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Fork Union District

Donald W. Weaver
Cunningham District

Chris S. Fairchild
Rivanna District

CERTIFIED MAIL

July 27, 2011

Southern Land Holdings LLC
3647 Lake Monticello Road
Palmyra, Virginia 22963
Attention: Mr. Stuart L. Guskind

Re: TMP 18B-(5)-5 (property situated at the northwest corner of the intersection of State Route 618, Lake Monticello Drive and State Route 600, South Boston Road).

Violation of Article 15. Sign Regulations

Dear Sir,

Fluvanna County is devoted to providing its citizens with a healthy, safe, and enjoyable county in which to live and work. The Fluvanna County Planning & Community Development Department has been notified of a possible code violation regarding your property. Our goal is to have this violation corrected in a way as not to unduly burden you, but to satisfy the County Code.

During a site inspection of the above referenced property on July 25, 2011, I noted the existence of a permanent sign structure that is advertising businesses and or services which are not in operation on the property. This sign type, known as an **Off-Premise Sign**, is a restricted sign type under **Fluvanna County Code Section 22-15-2.(1)d** and is prohibited in all zoning districts within the county. It is further defined in the Fluvanna County Zoning Ordinance as follows:

SIGN, OFF-PREMISE: A sign that directs attention to a business, product, service or establishment, conducted, sold or offered at a location other than the premises on which the sign is erected.

Realizing that this sign appears to have been in existence prior to the adoption of the Fluvanna County Sign Ordinance, it would therefore legally qualify under **Fluvanna County Code Section 22-15-5.Non-conforming signs**, which states the following:

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.

STAFF

Jay Scudder
County Administrator
jscudder@co.fluvanna.va.us

Mary L. Weaver
Clerk to the Board
mweaver@co.fluvanna.va.us

This sign has recently been refaced in part to incorporate a new advertisement. The new advertising wordage on this sign was not in existence at the time the sign became legally non-conforming, and therefore this sign is in violation of **Fluvanna County Code Section 22-15-5. Non-conforming signs**. In order to achieve compliance with the Fluvanna County Zoning Ordinance, this new advertisement wordage must be removed and the original wordage restored in order for the sign to regain its legally non-conforming status.

Under provisions of 15.2-2311 of the Code of Virginia, this letter represents an interpretation of the Fluvanna County Zoning Ordinance and anyone aggrieved by this interpretation may appeal to the Fluvanna County Board of Zoning Appeals within thirty days of receipt of this letter. The applicable fee for appeal is one hundred and twenty five dollars (\$125.00). Information regarding the appeal process is located in the **Fluvanna County Zoning Ordinance Article 18, Sec. 22-18**.

If you could contact me to discuss the proposed course of corrective action I am confident that we can resolve this violation in a timely manner. You may contact me at 434-591-1910 or smiller@co.fluvanna.va.us at your convenience. Thank you for your cooperation regarding this matter.

Sincerely,

Scott B. Miller
Code Compliance Officer

cc: Darren Coffey, Planning Director
cc: William S. Tugwell, Planner

StevenTugwell

From: Mike-Kathy Brent <mkbrent7@gmail.com>
Sent: Thursday, October 06, 2011 2:49 PM
To: Darren Coffey; StevenTugwell
Cc: Scott Carpenter; Sales@monticellomulch.com
Subject: ZMP 11:02-ZMP 01:01, Mulch Monkeys, Lake Monticello Road.

Daren and Steve

I met with Eddie Patterson this morning at the above site. The Fire Dept. concerns expressed at the August 11, 2011 TRC meeting have been addressed by Mr. Patterson. The defensive space around the mulch pile is adequate and access to the property and house is good. Please forward these comments to the Planning Commission.

Thanks
Mike Brent, Chief
FCVFD

**An Ordinance To Amend The Fluvanna County Zoning Map, With Respect To Tax Map 18B-5-1, To Amend The Proffer Associated With The Ordinance Approving ZMP 01:01, A Conditional Rezoning Affecting The Same Parcel.
(ZMP 11:02)**

BE IT ORDAINED BY THE FLUVANNA BOARD OF SUPERVISORS, pursuant to Virginia Code Section 15.2-2285, that the Fluvanna County Zoning Map be, and it is hereby, amended, as follows:

That Tax Map 18B, Section 5, Parcel 1 be and is hereby, conditionally rezoned from B-C, Business, Convenience, District, to B-C, Business, Convenience, District, subject to the amended proffer as set out in the application dated July 14, 2011, and which is attached hereto.

Limit the uses to business and professional offices, ~~with the only other possible uses for the property would be~~ veterinary clinic/boarding which may require a special use permit, and commercial greenhouses. All other uses would be prohibited.

DRAFT



COUNTY OF FLUVANNA

"Responsive & Responsible Government"

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

STAFF REPORT

To: Fluvanna County Board of Supervisors

From: Andrew Pompei

Case Number: CPA 11:01

Date: November 16, 2011

General Information: This request is to be heard by the Board of Supervisors on Wednesday, November 16, 2011 at 7:00 pm in the Circuit Courtroom in the Courts Building.

Applicant/Representative: Fluvanna County

Requested Action: A request for a Comprehensive Plan Amendment to strengthen the Urban Development Area (UDA) and Telecommunications sections of the plan.

Location: Not Applicable

Zoning History: Not Applicable

Analysis

The applicant is proposing to amend the *Land Use, Transportation, and Infrastructure* chapters of the Comprehensive Plan. The amendments are intended to:

- Strengthen the County's policies regarding growth and development in designated Urban Development Areas (UDAs); and
- Support the goals of the recently-adopted *Wireless Telecommunications Facilities Master Plan*.

These amendments are related to two major projects County staff and elected officials have been working on in recent years. Earlier this year, the County hired The Cox Company to re-evaluate its UDA policies. In 2010, CityScape Consultants began work on the *Wireless Telecommunications Facilities Master Plan*. The plan, which was adopted in September 2011, establishes general guidelines for the siting of wireless telecommunications towers and similar facilities. Amending the Comprehensive Plan ensures that the concepts promoted by these projects will become official County policy.

Any amendment must be determined to be consistent with the goals of the Comprehensive Plan and the overall community vision. The proposed amendments help the County realize several of its goals and implementation strategies, as outlined within the Comprehensive Plan.

Amendments Related to Urban Development Areas

The proposed changes strengthen the County's UDA policies. These text amendments further define the County's policies regarding UDAs by:

- Describing the benefits of encouraging growth within UDAs;
- Explaining the size and location of the designated UDA at Zion Crossroads; and
- Encouraging new development within UDAs to adhere to the principles of Traditional Neighborhood Design.

The Comprehensive Plan already encourages development to occur within the designated UDA, which is located at Zion Crossroads. The plan states that Fluvanna County's strategy to concentrate development within the UDA "could be an essential component to preserving its rural areas" (page 52). The existing text further outlines the design goals and location of the County's UDA:

Urban development areas are required to incorporate the principles of new urbanism and traditional neighborhood development. Additionally, they must be large enough to meet projected residential and commercial growth in the locality for an ensuing period of ten to twenty years. They also must provide for residential density of at least four residential units per gross acre, and commercial development with a minimum floor area ratio (FAR) of 0.4 per gross acre. This FAR requirement is interpreted by the county to apply only to the parcel on which commercial development is occurring, not to the entire urban development area, which is not feasible or desirable for any but the most urban of communities.

One urban development area is envisioned in this plan, referred to as the Zion Crossroads urban development area. This location was chosen because it correlates with the Zion Crossroads community planning area and the intersection of two existing major transportation networks—U.S. Routes 250 and 15.

The Zion Crossroads urban development area is designed to take advantage of the high volume of traffic generated by its position in close proximity to an interstate interchange, and with the intersection of Routes 250 and 15. In the near term, much of the traffic in the area will be generated from outside the county, until residential growth expands in the area. As stated previously, an important key to the success of the Zion Crossroads UDA is working with Louisa County to ensure that growth in both counties is managed well. Also, the provision of additional infrastructure, particularly water, is needed to allow for more dense development. Other necessary infrastructure such as sewer, roads, stormwater systems, and telecommunications should be substantially provided by developments or other private enterprises (page 52 – 53).

The amendments regarding UDAs relate to the following goals of the Comprehensive Plan:

- Develop land-use policies and regulations that will preserve and enhance the county's natural environment (*Natural Environment: Goal 1*).
- Effectively implement the Comprehensive Plan land-use strategies and the Future Land Use Map (*Land Use: Goal 1*).
- Enable well-planned, coordinated, and sustainable development to occur throughout the County (*Land Use: Goal 2*).
- Preserve and enhance Fluvanna's unique identity and rural character (*Community Design: Goal 1*).
- Develop higher-density, walkable, mixed-use communities in the identified growth areas of the County (*Community Design: Goal 2*).

The proposed amendments support the current Comprehensive Plan. The changes do not introduce new concepts or ideals, but strengthen existing policies. They provide officials and residents alike with a clear explanation regarding the size and location of designated UDAs, as well as the benefits of compact, concentrated growth. The design standards better define the County's vision regarding the form of new development, providing decision-makers with a clear basis on which to evaluate rezonings, special-use permits, and other discretionary actions. With the new language in place, developers building within the UDA will understand the form their projects should take to meet the goals set forth in the Comprehensive Plan.

The proposed amendments adhere to state mandates. Virginia law (§ 15.2-2223.1) requires fast-growing localities statewide to delineate at least one UDA within their comprehensive plans. The UDA must be large enough to accommodate the growth anticipated over the next 10 to 20 years. New development is required to meet minimum density requirements. The comprehensive plan must promote principles of traditional neighborhood design with the UDA, such as:

- Pedestrian-friendly road design;
- Interconnection of new local streets with existing local streets and roads;
- Connectivity of road and pedestrian networks;
- Preservation of natural areas;
- Mixed-use and mixed-income neighborhoods;
- Reduced setbacks; and
- Reduced street widths.

The state required every fast-growing county with a population under 130,000 to adopt similar provisions by July 1, 2011. If approved, the proposed amendments would reaffirm Fluvanna County's commitment to encouraging growth within its UDA.

Amendments Related to Telecommunications Facilities

The proposed changes support the goals of the *Wireless Telecommunications Facilities Master Plan*, which was adopted in September 2011. The proposed text amendments and supplementary maps:

- Describe the *Wireless Telecommunications Facilities Master Plan* and its policy implications; and
- Show existing wireless facilities and suggested fill-in sites.

The Comprehensive Plan already includes a brief description of wireless communication facilities within the County; however, this description pre-dates the adoption of the *Wireless Telecommunications Facilities Master Plan*. Below is an excerpt from the existing text:

Fluvanna County is receiving an ever-growing number of applications for wireless towers. The Board of Supervisors is increasingly concerned with its limited ability to fully evaluate these applications in terms of appropriate location, necessary height, and other site considerations. The county will require a more comprehensive application and offer ways to more thoroughly evaluate these requests.

One strategy the county is interested in pursuing is to have a vendor conduct an independent review of each tower application submitted to the county. Detailed tower application reviews that reference the Comprehensive Plan, the zoning ordinance, and the communications master plan will give the Planning Commission and Board of Supervisors a consistent basis upon which to consider these requests.

The purpose of the wireless communications portion of the plan, and associated ordinance amendments, is to establish general guidelines for the siting of wireless telecommunications towers, antenna, ground equipment, and related accessory structures. Policies and recommendations should minimize the impacts of wireless communication facilities on surrounding areas by establishing standards for location, structural integrity, and compatibility; encourage the location and colocation of wireless communication equipment on existing structures; accommodate the growing need and demand for wireless communication services; encourage coordination between communication providers; establish consistent and balanced legal language governing wireless communications facilities that take into consideration the Comprehensive Plan and communications master plan; and maintain compliance with applicable laws, including but not limited to the 1996 Telecommunications Act (p. 109 – 110).

The amendment related to telecommunications facilities relates to the following goals:

- Preserve and enhance Fluvanna’s unique identity and rural character (*Community Design: Goal 1*).
- Facilitate the deployment of a comprehensive communications network that ensures the reliability of public safety, wireless, and broadband services (*Infrastructure: Goal 6*).

The proposed amendments support the current Comprehensive Plan. The changes do not introduce new concepts, but update, strengthen, and clarify existing policies. The proposed maps show the optimal sites for new telecommunications facilities, allowing County officials to better determine the necessity of new towers proposed by cellular providers. The additions help cellular providers decide what form new towers should take by including a preferred siting hierarchy. Cellular businesses better understand what is expected of them, and County officials have a defined basis on which they can evaluate new proposals.

Technical Review Committee

The Technical Review Committee Meeting was held on October 13, 2011. Several agencies commented on the request:

- The Health Department commented on the need to provide public water and sewer to the County’s UDA. The agency’s representative stated that issues which may be relevant to wastewater and public drinking water should be addressed by the Virginia Department of Environmental Quality and the VDH Office of Drinking Water.
- The Virginia Department of Transportation (VDOT) stated that it would review the proposed amendments to determine how they relate to their policies. After further review, VDOT stated that the proposed changes were minor. No additional traffic will be generated compared to the existing Comprehensive Plan designation.
- JAUNT stated that it might be appropriate to include some text about public transit within the amendments. Compact development patterns and interconnected street networks make public transit more efficient.

Planning Commission

The Planning Commission reviewed the proposed amendments at their regular meeting on October 26, 2011. The Planning Commission recommended approval with a vote of 6-0.

While there was no discussion amongst Commission members regarding the item, Mr. Payne (County Attorney) stated that the proposed amendments are consistent with the intent of state legislation and current County policies. While the proposed density is higher than what is found in other parts of the County, development within the UDA will be compatible with Fluvanna County’s vision for its growth areas. Although the terminology includes the word “urban,” the UDA will not accommodate densities as high as those found in nearby cities.

Conclusion

The proposed amendments to the Comprehensive Plan related to Urban Development Areas (UDAs) and telecommunications facilities are consistent with current County policies and goals. The amendments do not introduce new concepts or ideals, but strengthen and clarify policies that the County already supports. Not only do the amendments help County officials evaluate new development proposals, but will help private developers understand the form their projects should take to be consistent with the Comprehensive Plan.

Suggested Motion

I move that the Board of Supervisors [approve/deny] CPA 11:01, a request to amend the *Land Use, Transportation, and Infrastructure* chapters of the Comprehensive Plan, and associated changes, to further the vision and goals of the Comprehensive Plan.

Attachments

- A: Application
- B: TRC Comments (Health Department)
- C: TRC Comments (VDOT)
- D: TRC Comments (JAUNT)
- E: Proposed Amendments (Land Use Chapter)
- F: Proposed Amendments (Infrastructure Chapter)
- G: Proposed Amendments (Transportation Chapter)



**COMMONWEALTH OF VIRGINIA
COUNTY OF FLUVANNA
Application for
Comprehensive Plan Amendment**

Resolution of Intent to Amend the Comprehensive Plan

Amendment to Text Amendment to Map Other (Please specify) _____

Applicant/Contact: Fluvanna County **Owner(s) of Record:** 132 Main Street, Palmyra, VA 22963
E911 Address: _____ **E911 Address:** _____

Phone: _____ **Fax:** _____ **Phone:** 434-591-1910 **Fax:** 434-591-1814

Email: _____ **Email:** dcoffey@co.fluvanna.va.us

Project Name: _____

Tax Map and Parcel(s): _____ **District:** _____ **Zoning:** _____

Location of property:
(landmarks, intersections, or other)

Proposed amendment to the Comprehensive Plan: (attach additional sheets as necessary)
 If the amendment proposes to replace existing text, please provide a full copy of the existing text for the affected section.

Amendment Requested: Amend Comprehensive Plan by adding text & illustrations to strengthen the County's Urban Development Area (UDA) section which is provided by Virginia Code 15.2-2223.1

By signing this application, the undersigned owner/applicant authorizes entry onto the property by County Employees, the Planning Commission, the Board of Supervisors, and the Board of Zoning Appeals during the normal discharge of their duties in regard to this request.

Date: 9/30/11 **Signature of Owner(s)/Applicant:** [Signature]

OFFICE USE ONLY			
Date Received: <u>9/29/11</u>	Pre-Application Meeting:	PH Sign Deposit Received:	Application #: <u>CPA 11: 01</u>
Text - \$750.00/fee paid:		Map - \$750.00 plus \$50.00 per acre/fee paid:	
Resolution of Intent Adopted:	Yes No	Date of Action:	
Public Hearings			
Planning Commission		Board of Supervisors	
Advertisement Dates: <u>13 And 20 Oct 2011</u>		Advertisement Dates:	
APO Notification:		APO Notification:	
Date of Hearing: <u>26 Oct 2011</u>		Date of Hearing:	
Decision:		Decision:	

From: [StevenTugwell](#)
To: [Andrew Pompei](#)
Subject: FW: Comments for October 13th
Date: Friday, October 14, 2011 11:41:43 AM

From: Rice, Gary (VDH) [mailto:Gary.Rice@vdh.virginia.gov]
Sent: Thursday, October 13, 2011 2:17 PM
To: StevenTugwell
Subject: Comments for October 13th

Following comments from Health Department for 10/13/11 Agenda items.

1. CPA 11:01 - Issues which may be relevant to wastewater and public drinking water should be addressed by the Virginia Dept. of Environmental Quality and the VDH Office of Drinking Water
2. SUP 11:03 - No Comments
3. SUP 11:04 - Health Dept. will need a submittal to expand the existing sewage disposal system. Assessment and design of the system must be done by and AOSE.
4. ZTA 11:03 - Issues which may be relevant to wastewater and public drinking water should be addressed by the Virginia Dept. of Environmental Quality and the VDH Office of Drinking Water

Gary

From: [Darren Coffey](#)
To: [Todd Gordon](#)
Cc: [Andrew Pompei](#)
Subject: FW: 10/13/2011 TRC packet
Date: Monday, October 24, 2011 12:00:40 PM

Here is VDOT's official review of this CPA. ☺ D

[Print for files.](#)

From: Proctor, Charles C. [mailto:Charles.Proctor@VDOT.Virginia.gov]
Sent: Monday, October 24, 2011 11:58 AM
To: Goodale, James E.; Wood, Mark (James), P.E., L.S.
Cc: Darren Coffey
Subject: RE: 10/13/2011 TRC packet

Mark & Jim,

I have reviewed the TRC Packet for regarding the Comp Plan Amendment for the UDA in the Zions Area. This is a minor change required by the regulation for UDA's and will equate to no additional traffic beyond the previous Comprehensive Plan designation for this area.

Let me know if there are any questions.

Thanks,

Chuck

Charles C. Proctor III
Culpeper District
Planning and Land Development Section
Phone 540-829-7558
charles.proctor@vdot.virginia.gov

From: Goodale, James E.
Sent: Friday, October 14, 2011 7:24 AM
To: Wood, Mark (James), P.E., L.S.
Cc: Proctor, Charles C.; Darren Coffey
Subject: FW: 10/13/2011 TRC packet

Please review the comprehensive plan amendment and provide comments to Darren Coffey.

Thanks

James E. Goodale
Highway Permits & Subdivision
Zions Crossroads South
P.O. Box 1017
Froy, VA. 22974
(434) 589- 2358

From: StevenTugwell [mailto:stugwell@co.fluvanna.va.us]
Sent: Monday, October 03, 2011 1:11 PM

StevenTugwell

From: Peter @ JAUNT <petero@ridejaunt.org>
Sent: Monday, October 03, 2011 4:19 PM
To: StevenTugwell
Subject: RE: 10/13/2011 TRC packet

Hi Steve,

I can't attend the TRC meeting, but I had some thoughts on the Comp Plan amendment/UDA discussion that you can share if you want. It might be appropriate to add some text about public transit, since compact development/TND helps even demand-response rural transit systems like JAUNT. JAUNT's benefits are similar to those stated for public safety: mainly, connected streets lead to more direct routing, which leads to lower costs. There is also the efficiency benefit that density brings: with more people and more destinations closer together, there's a bigger probability of grouping a few riders together, leading to a lower cost to the County per ride and fewer empty buses. Third, TND can create "transit-ready" neighborhoods that may not actually have transit when they are developed but could support something, such as a commuter bus stop, in the future. (Lake Monticello is a great counter-example... instead of having one or two centrally located stops, it takes our commuter route 40 minutes each morning just to hit the Lake stops before heading to town.)

No comments on the other items from the packet.

Thanks!

Peter Ohlms
 Mobility Manager
 JAUNT
 104 Keystone Place
 Charlottesville, VA 22902
 (434) 296-3184 ext. 120
petero@ridejaunt.org

JAUNT Friends CVC code 3553

From: StevenTugwell [mailto:stugwell@co.fluvanna.va.us]
Sent: Monday, October 03, 2011 1:11 PM
To: alyson.sappington@tjwcd.org; Andrew Pompei; Andy Wills; BarryBibb; Carolyn Tinsley; charles.miller@vdh.virginia.gov; chuck.wright@dof.virginia.gov; DarrenCoffey; Donald Gaines; fuac@embarqmail.com; gary.rice@vdh.virginia.gov; Goodale, JamesE.; James Halstead; Joe Chesser; Lauren Ryalls; mkbrent7@gmail.com; Peter @ JAUNT; RogerBlack; Sam Babbitt; solson@forvec.com; Steve Nichols; tjohnson@fluvannasheriff.com
Subject: 10/13/2011 TRC packet

Dear TRC members:

Attached is the packet for our October 13th, 2011 meeting. We have included everyone on our TRC routing list (including all of the Planning Commissioners), so that we can create one contact for TRC members- so you may not be scheduled to attend this meeting- this is true for all Commissioners except Dr. Babbitt and Mr. Nichols. If you do not plan on attending the meeting, kindly let me know.

Thanks, and I look forward to seeing you on the 13th!

Urban Development Areas

~~In 2007, the Virginia General Assembly passed HB 3202 (Virginia Code section 15.2-2223.1), which mandates that all high growth counties create urban development areas (UDAs) of sufficient size and density to accommodate anticipated residential, commercial, and industrial growth. Such areas must be developed in accordance with the principles of new urbanism. While it would seem that creating “urban” development areas in Fluvanna County is fundamentally inconsistent with its rural heritage, the reality is that this could be an essential component to preserving its rural areas. The term *urban* is a relative one that needs to be carefully adapted to Fluvanna County and the values of its citizens. Six to ten dwelling units per acre (du/ac) would be a substantial move toward “urban” character in Fluvanna, while a similar density would be seen as low to medium density in a county such as Chesterfield or Fairfax.~~

~~The county’s foresight in using these concepts to develop planning areas placed it ahead of most other communities when the use of UDAs became mandatory in 2007. State law requires high growth counties like Fluvanna to amend their comprehensive plan to incorporate one or more UDAs. As defined in the *Code of Virginia*, an urban development area is an area designated by a locality that is appropriate for higher density development due to proximity to transportation facilities, the availability of a public or community water and sewer system, or proximity to a city, town, or other developed area.~~

~~Urban development areas are required to incorporate the principles of new urbanism and traditional neighborhood development. Additionally, they must be large enough to meet projected residential and commercial growth in the locality for an ensuing period of ten to twenty years. They also must provide for residential density of at least four residential units per gross acre, and commercial development with a minimum floor area ratio (FAR) of 0.4 per gross acre. This FAR requirement is interpreted by the county to apply only to the parcel on which commercial development is occurring, not to the entire urban development area, which is not feasible or desirable for any but the most urban of communities.~~

~~One urban development area is envisioned in this plan, referred to as the Zion Crossroads urban development area. This location was chosen because it correlates with the Zion Crossroads community planning area and the intersection of two existing major transportation networks—U.S. Routes 250 and 15.~~

The Zion Crossroads urban development area is designed to take advantage of the high volume of traffic generated by its position in close proximity to an interstate interchange, and with the intersection of Routes 250 and 15. In the near term, much of the traffic in the area will be generated from outside the county, until residential growth expands in the area. As stated previously, an important key to the success of the Zion Crossroads UDA is working with Louisa County to ensure that growth in both counties is managed well. Also, the provision of additional infrastructure, particularly water, is needed to allow for more dense development. Other necessary infrastructure such as sewer, roads, stormwater systems, and telecommunications should be substantially provided by developments or other private enterprises.

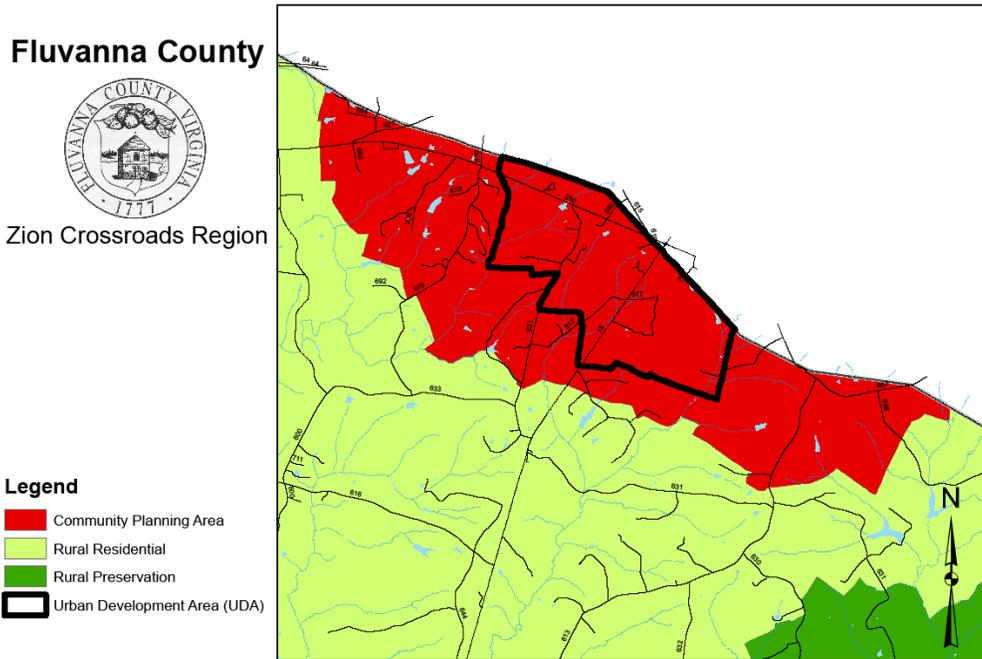


Figure LU-22, Zion Crossroads Urban Development Area

Urban Development Areas

In 2007, the Virginia General Assembly passed, and revised in 2010, Urban Development Area legislation (*Virginia Code 15.2-2223.1*), requiring high-growth counties like Fluvanna to create Urban Development Areas (UDAs) of sufficient size and density to accommodate future growth. Such areas should be developed in accordance with the principles of traditional neighborhood design. This legislation presents Fluvanna County with an opportunity to strengthen its existing designation of Community Planning Areas as places to concentrate future growth and economic development, while preserving the rural heritage of other parts of the County. This section details the designation of a single Urban Development Area for Fluvanna, located within the Zion Crossroads Community Planning Area.

As defined by this legislation, a UDA is an area, designated by a locality, that is appropriate for higher-density development due to its proximity to transportation facilities, the availability of a public or community water and sewer system, or proximity to a city, town, or other developed area. The UDA must be large enough to meet the projected demand for residential and commercial growth for the next ten to twenty years.

Additionally, Urban Development Areas should incorporate the principles of traditional neighborhood design, and should be appropriate for densities of at least:

- Four single family residences per acre,
- Six townhouses per acre, or
- Twelve apartments or condominium units per acre; and
- A floor area ratio of at least 0.4 for commercial development.

The Benefits of UDAs

The purpose of Virginia's urban development areas legislation is to improve the future efficiency of state-funded road building and maintenance. The suburban sprawl that has resulted from large-lot development and separation of uses in typical suburban developments has brought about increased traffic and the financial burden of maintaining a rapidly expanding road network.

The benefits of compactness and traditional neighborhood design can address some of the transportation effects of suburban sprawl. By locating residences or businesses closer together, these new uses can be connected to existing roads with shorter new road segments constructed and maintained at lower cost. By combining commercial and residential uses in the same community, TND communities require much shorter trips to access daily needs. The pedestrian focus of TND communities also means that some trips can be made by walking, removing some vehicle trips from roads.

UDA development can help the County reach its comprehensive plan goals for the County and the Zion Crossroads area. By allowing more intense development in appropriate areas, the County has the opportunity to preserve its rural and agricultural landscape by reducing development pressures on these sensitive areas. Compact development can also mean shorter infrastructure connections for public water and sewer

utilities, reduced need for school busing, and improved response times for police and fire services.

UDA Demographic Projections

The size of the Urban Development Area must adhere to the definitions and requirements of Section 15.2-2223.1 of the Code of Virginia. The objective of the legislation is that the UDA be sized based on the Virginia Employment Commission's projections of Fluvanna's future population growth over the next 10 to 20 years.

The legislation defines the UDA as a place for developing single family homes, attached homes like town houses and duplexes, multifamily homes like apartments or condominiums, and commercial or office uses, and specifies target densities for these uses. The UDA densities are to be applied only to developable acreage, that is, an area for active development that is exclusive of existing parks, road rights-of-way, railroads, utilities, and other public facilities.

URBAN DEVELOPMENT AREA DENSITIES

- *UDA Single Family Detached Residential:* *4 units/acre*
- *UDA Attached Residential:* *6 units/acre*
- *UDA Multifamily Residential:* *12 units/acre*
- *UDA Commercial and Office Employment:* *0.40 FAR*
- *A proportional mix of the above densities*

Using population projections and a likely mix of the above stated densities, it is possible to project the land area necessary to accommodate future growth in a Traditional Neighborhood Development pattern. By applying population projections to rural and suburban densities approximating Fluvanna's existing development, it is also possible to project the land area that would be necessary to accommodate future growth at existing densities.

As of 2010, Fluvanna County had 25,691 residents. The Virginia Employment Commission has projected that Fluvanna's population will increase to 37,433 by the year 2020, and to 47,010 by the year 2030. As a result, the Zion Crossroads UDA should be planned to accommodate between 11,742 and 21,319 new residents over the next 10 to 20 years.

At existing rural and suburban densities 11,041 to 25,186 acres of new development would be needed to accommodate projected growth. The same growth could be accommodated by Traditional Neighborhood Development of between 711 and 1708 acres.

UDA Location

The County's Urban Development Area should be located to take advantage of major roads and areas of development that already exist. In general, the UDA legislation states that UDAs should be located based on:

- *Proximity to existing transportation facilities,*
- *Availability of public water and sewer systems, and*
- *Proximity to towns or other areas of existing development.*

By encouraging more intense new development near areas of existing facilities and development, the County has the opportunity to protect the agricultural and rural lands that are one of the County's great assets from suburban sprawl development. The plan also recognizes that one strategy to protect these assets is to focus potential future development in the most advantageous areas, thereby saving farmland from being developed, and creating villages as important centers of community and commerce. This strategy is very much in line with the intent and community development principles of Urban Development Areas; to encourage village-like development in select areas, while preserving the natural and agricultural character of outlying areas.

Zion Crossroads

One urban development area is envisioned in this plan, referred to as the Zion Crossroads Urban Development Area. This location was chosen because it correlates with the Zion Crossroads community planning area and the intersection of two existing major transportation networks—U.S. Routes 250 and 15.

The Zion Crossroads urban development area is designed to take advantage of the high volume of traffic generated by its position in close proximity to an interstate interchange, and with the intersection of Routes 250 and 15. In the near term, much of the traffic in the area will be generated from outside the County, until residential growth expands in the area. As stated previously, an important key to the success of the Zion Crossroads UDA is working with Louisa County to ensure that growth in both counties is managed well.

The designated UDA encompasses a total of 1890 acres. Within this area are a significant number of roads and other public facilities, as well as established and stable uses, which cannot be considered developable. Therefore, the actual developable acreage of the designated UDA is somewhat reduced, and falls within the projected 711 to 1708 developable acres needed to accommodate 10 to 20 years of projected future growth. As a result, the above analysis supports the designated Zion Crossroads UDA.

It is important to note that the provision of additional infrastructure, particularly water, is needed to allow for more intense development in Zion Crossroads. Other necessary infrastructure such as sewer, roads, stormwater systems, and telecommunications should be substantially provided by developments or other private enterprises.

Fluvanna County



Zion Crossroads Region

Legend

-  Community Planning Area
-  Rural Residential
-  Rural Preservation
-  Urban Development Area (UDA)

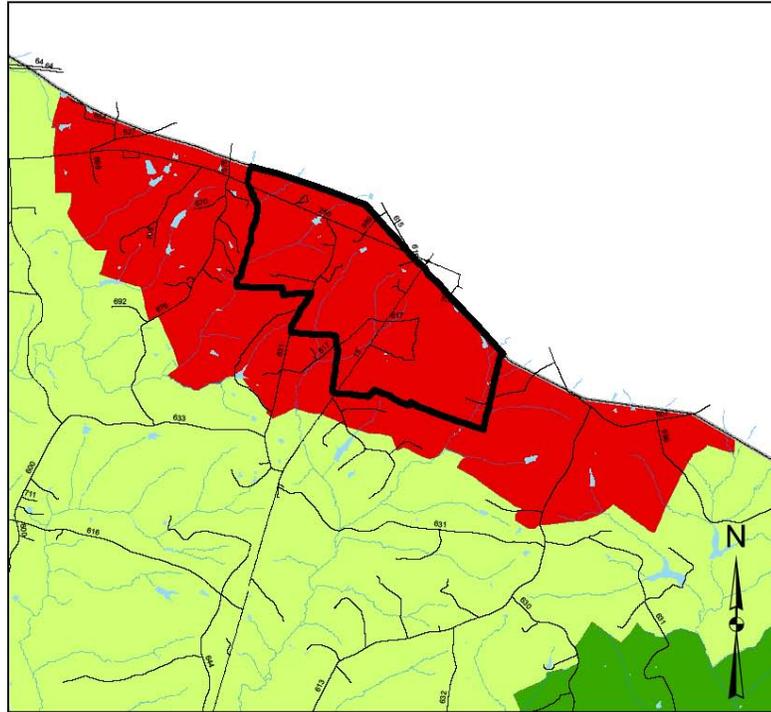


Figure LU-22, Zion Crossroads Urban Development Area

Traditional Neighborhood Design

Development within Urban Development Areas should be based on the principles and features of Traditional Neighborhood Design (TND) in order to achieve transportation and other benefits over typical suburban development. Sometimes also called new urbanism, or neo-traditional design, the features of TND include:

- pedestrian-friendly road design,
- interconnection of new local streets with existing local streets and roads,
- connectivity of road and pedestrian networks,
- preservation of natural areas,
- mixed-use neighborhoods, including a mix of housing types,
- reduction of front and side yard building setbacks, and
- reduction of street widths and turning radii at subdivision intersections.

The purpose of these TND features is to bring commercial and residential uses closer together, and to increase the transportation efficiency of new development. While typical suburban development separates the places where people live, work, and shop into separate areas, TND development mixes uses so that trips between them are shorter. By focusing on a connected pattern of streets, rather than suburban cul-de-sacs, and by providing sidewalks and other pedestrian amenities, some trips may even be accomplished by walking or biking rather than driving.

These TND features support the overall land use goals for the Zion Crossroads UDA and Community Planning Area, by encouraging a village-scaled center at Zion Crossroads as a place for economic development. The Comprehensive Plan chapter on *Community Design* further illustrates these TND principles.

Construction and demolition debris will also increase as a result of land development. Methods for managing larger volumes of inert waste, including brick, rock, and lumber, will be necessary. To this end a facility is scheduled to open next to the Allied Waste facility on Route 250 that will target recycling of construction and demolition debris. This type of recycling lends itself to moving toward green building in the county. One of the many items that help to make a building LEED (Leadership in Energy and Environmental Design)-certified is the recycling of waste from the building site. Having such a facility makes LEED building more likely in the county.

Communication Infrastructure

The rapidly changing area of technology and communications, particularly regarding public safety radio, wireless, and broadband communications systems, requires a greater level of technical expertise than the county can provide internally. The county is developing a comprehensive communications strategy that will maximize current and future investments in infrastructure and its placement.

Public Safety Communications

The existing public safety communications system is in need of a substantial upgrade or replacement. A number of factors have contributed to this circumstance. The county is currently operating four frequencies (two for law enforcement and two for fire and rescue) on a wide-band VHF system. The system has an inadequate coverage area that appears to be degrading. There is a single transmitting site, and three receiver sites. In some areas at the farthest points from the transmit site, there is little or no communication capability (including wireless). This is an obviously dangerous situation that the county is committed to alleviating.

The county commissioned a study in 2000 that includes detailed propagation maps and demonstrated that the county's options are clear: (1) joining the Charlottesville/Albemarle 800 MHz system, (2) using a stand-alone 800 MHz system, (3) using a UHF simulcast trunked system, or (4) using a VHF simulcast trunked system.

The purpose of the communications master plan that deals with this aspect of communications is to detail and rate each upgrade option based on factors such as ability to meet or exceed system expectations, cost, and ongoing maintenance.

Wireless Communication

Fluvanna County is receiving an ever-growing number of applications for wireless towers. The Board of Supervisors is increasingly concerned with its limited ability to fully evaluate these applications in terms of appropriate location, necessary height, and other site considerations. The county will require a more comprehensive application and offer ways to more thoroughly evaluate these requests.

~~One strategy the county is interested in pursuing is to have a vendor~~ *In 2010, the County hired a consultant to* conduct an independent review of each tower application submitted to the county. Detailed tower application reviews that reference the Comprehensive Plan, the zoning ordinance, and the communications master plan ~~will~~ gives the Planning Commission and Board of Supervisors a consistent basis upon which to consider these requests.

The purpose of the *Wireless Telecommunications Facilities Master Plan* ~~wireless communications portion of the plan~~, and associated ordinance amendments, is to establish general guidelines for the siting of wireless telecommunications towers, antenna, ground equipment, and related accessory structures. Policies and recommendations should minimize the impacts of wireless communication facilities on surrounding areas by establishing standards for location, structural integrity, and compatibility; encourage the location and colocation of wireless communication equipment on existing structures; accommodate the growing need and demand for wireless communication services; encourage coordination between communication providers; establish consistent and balanced legal language governing wireless communications facilities that take into consideration the Comprehensive Plan and communications master plan; and maintain compliance with applicable laws, including but not limited to the 1996 Telecommunications Act.

The Telecommunications Master Plan was adopted as a policy by the Board in September 2011, along with zoning ordinance amendments regulating telecommunications facilities.

The following excerpts are the more pertinent sections of the Master Plan from a policy perspective:

The County provided CityScape a list of thirteen (13) County-owned properties as potential locations for new wireless telecommunications infrastructure. CityScape went to each property and reviewed the following site development criteria for each location: lot size; accessibility; existing and adjacent land uses; proximity to existing towers; and potential use of the land for new telecommunications infrastructure. All thirteen (13) locations identified were found acceptable for potential future infrastructure. Providing lease space to the wireless telecommunications industry on these properties could gross the County millions of dollars over the next twenty years.

Location	Suggested Height	Suggested Type of Telecommunication Facility
Pleasant Grove Road	>200'	Light Stanchion
Palmyra Fire House	≤199'	Monopole
Kent Store Fire House	>200'	Monopole
Central Elementary School	>200'	Light Stanchion or no pole
Carysbrook Complex	≤199'	Light stanchion
Columbia Elementary School	≤199'	Light Stanchion
Fluvanna County Solid Waste Convenience Center	≤199'	Monopole
Omohundro Water Tank	≤199'	Attachment
Future Fork Union Fire House	≤199'	Monopole, Slick Stick, or Flag Pole
Weber City Water Tank	≤199'	Attachment
Weber City/Melton Property	≤199'	Monopole
Bremo Bluff Property	>200'	Faux Fire Tower
Bottom Road Property	>200'	Painted Monopole

Hierarchy recommendation A Siting Hierarchy is a zoning tool to encourage the use of existing antenna support structures, and the use of publicly owned property for future telecommunications infrastructure. Providing a Siting Alternative Hierarchy is one way to encourage the use of existing facilities and county-owned properties as locations for new wireless telecommunications infrastructure. Adding the hierarchy of preferable infrastructure options also addresses the visual and locational preferences of future network installations. The draft siting hierarchy below is based on the feedback received from the attendees at the public meetings.

Siting hierarchy. Siting of a new antenna array or new TASF shall be in accordance with the preferred siting hierarchy in the order outlined below. All siting options are preferred to be located on publicly-owned property, as identified in the County's Telecommunications Master Plan, as a first option. The location of antenna array or other facilities on non publicly-owned property is acceptable as a secondary option within each category.

- (1) Concealed attached antenna
- (2) Colocation; antenna modification; combined antenna(s) on existing TASF
- (3) Colocation or new TASF in utility right-of-way
- (4) Non-concealed attached antenna
- (5) Replacement of existing TASF
- (6) Mitigation of existing TASF
- (7) Concealed freestanding TASF
- (8) Non-concealed freestanding TASF
 - (a) Monopole
 - (b) Lattice
 - (c) Guyed

Rural Broadband

While investigating options that may lead to a greater investment in infrastructure for public safety and wireless communications, the county would like to have a plan in place for the provision of rural broadband throughout the underserved areas of the county. This service is intended to serve three functions:

- Provide high-speed internet service at a reasonable cost for Fluvanna County residents.
- Provide high-speed internet service at a reasonable cost for Fluvanna County businesses.
- Provide for county-wide use of law enforcement mobile data terminals through this system solely, or a combination of this system and the wireless or public safety communication system if feasible.

Additionally, as part of any capital project that requires “opening the ground,” conduit for future fiber or other high-tech infrastructure should be placed in the ground for future use, particularly along corridors and between community planning areas and public services.

Television

Cable television service is not available in most areas of the county, although satellite networks have narrowed the cable service gap over the past decade. Dish Network and DirectTV are the two satellite television providers in the area.

The below graphic is proposed for deletion and replacement with the one on the next page.

Fluvanna County Wireless Communication Facilities

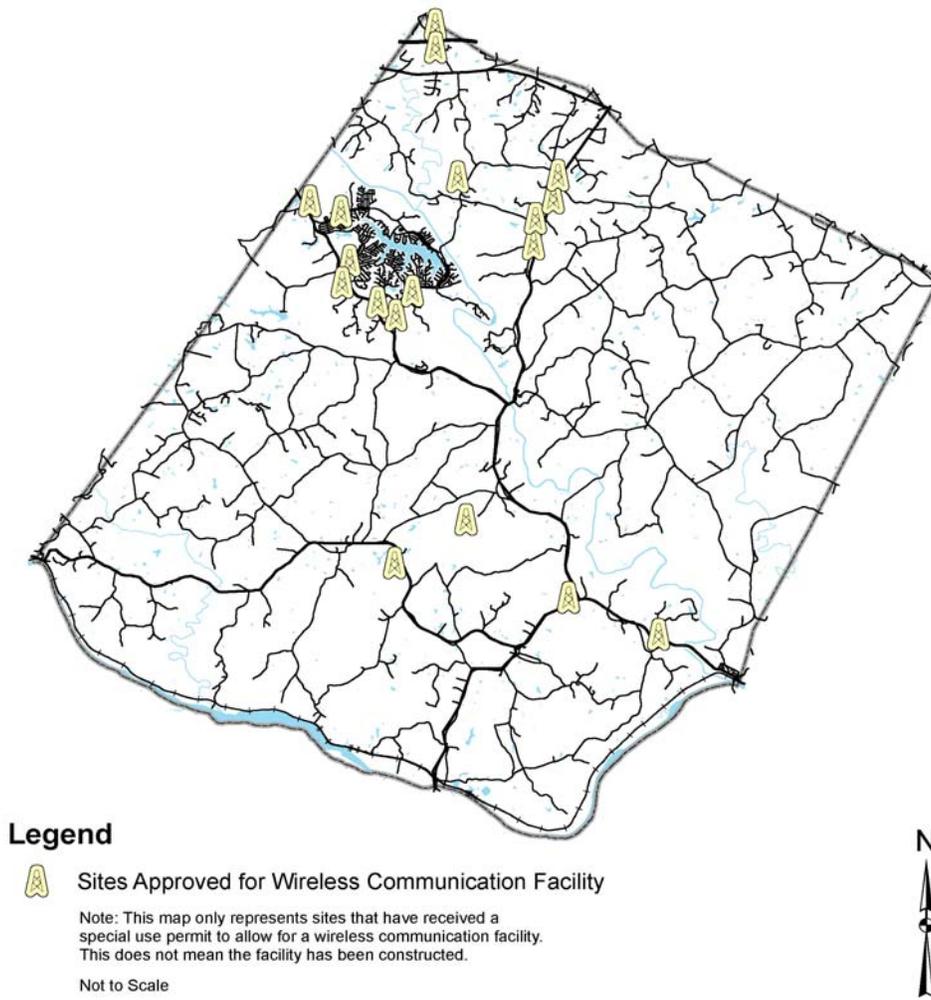


Figure I-8, Map of Wireless Communication Facilities

Signal Strength at 1900 MHz From Suitable Existing Sites, Proposed Sites, and Projected Fill-In Locations Including Terrain, Summer Foilage and Projected Population Density

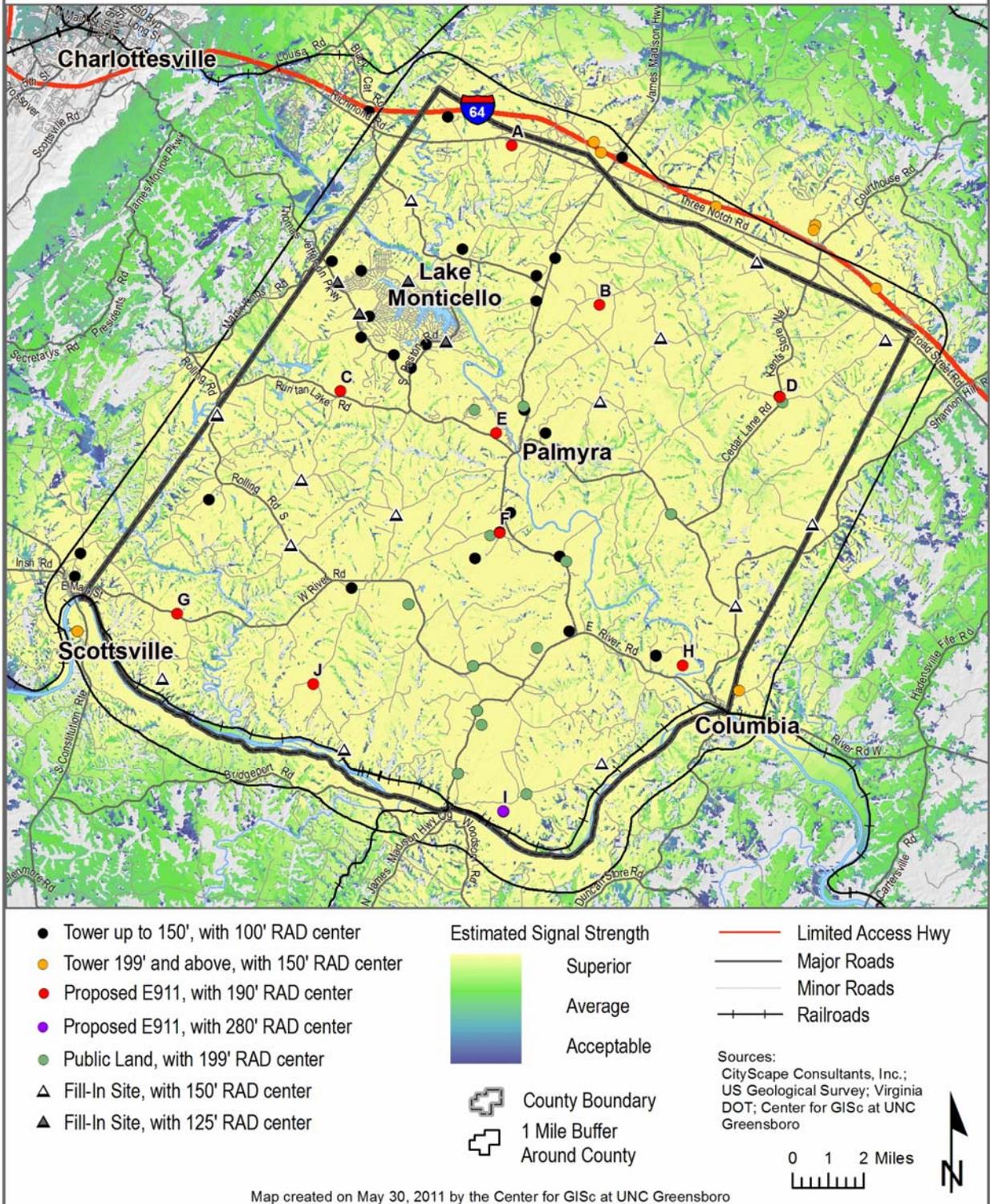


Figure I-8, Map of Wireless Communication Facilities

Fork Union Community Plan

There are several transportation-related improvements that can be done to improve the safety and appearance of Fork Union.

- Add a walking/biking trail between the Community Center and “downtown.” Determine whether a sidewalk set back from Route 15 or a trail behind houses, such as the Fluvanna Heritage Trail, would be most appropriate. Both of these options would require coordination and consent from landowners.
- Conduct an engineering analysis to determine whether traffic-calming devices (curb extensions, median crossings, roundabouts) can be installed at key intersections.
- Install marked crosswalks along Route 15 in strategic places.
- Improve existing sidewalks and add additional sidewalks along Route 15 connecting downtown to the Village Shopping Center.
- Consider adding bike lanes on wide roads. Bike lanes make the roads safer for cyclists and slow down traffic by narrowing lanes.
- Review building and zoning codes and recommend relevant changes to allow the type of development and infrastructure desired by residents.

Transportation in the Zion Crossroads UDA

By planning for denser, mixed-use development in certain key locations within the County, Fluvanna has the opportunity to improve the overall efficiency of its transportation system. Development in the mixed-use, Traditional Neighborhood Development (TND) pattern can produce several transportation benefits through changes in street patterns and modes of travel.

The benefits of TND transportation planning extend to those people who will live and work in these new communities, but also to local governments and citizens of the larger region. Many of the benefits of TND streets can be measured in terms of increases in system capacity, greater choices to satisfy travel demands, shorter travel times, construction cost savings, and reduced maintenance. On the other hand, other (equally important) attributes are linked to less scientific quality of life, aesthetic, and safety factors.

Reduced trip generation and internal capture

TND communities have a mix of uses that combines residential, civic, institutional, and commercial uses into one project on one site, as opposed to creating separate development modules, with each serving a different use. A resident of a typical TND community would be able to complete certain daily tasks, like grocery shopping, dropping a child off at school, or going out for a meal, without leaving the community. Trips by TND residents that are made without leaving the TND are called internal capture. These are trips that are shorter, safer, and, in some cases, can be substituted by pedestrian trips.

When analyzing traffic impacts for new developments, the Virginia Department of Transportation (VDOT) allows for the possibility that up to 15 percent of all trips by TND residents will be internally captured. This means 15 percent less traffic placed on existing external roads, which can lead to savings in road widening, turn lanes, and signalization. However, actual case studies comparing TND to conventional suburban projects in Virginia and other states have realized even better rates of internal capture, with 20-25 percent of trips staying within the TND.

Increased transportation system capacity

TNDs typically use an interconnected grid of streets, while most sprawl subdivisions use a disconnected pattern of streets with many cul-de-sacs and a few high-volume collector roads. The overall effect of the TND grid pattern is to divide traffic between many small streets rather than concentrate it on a few large collector roads.

Traffic analysis of TND and suburban developments show that a compact network of small interconnected streets has more traffic capacity than the same street area combined into large collector streets. The net benefit is fewer travel lanes, fewer traffic signals, and fewer traffic accidents while increasing overall system effectiveness.

Reduced traffic times and less signal wait

While TND streets have many small, relatively quiet intersections, major collector roads typically have large, complex intersections. More complex collector intersections require multiple lanes, a variety of turning lanes, and traffic signal cycles for a variety of movements, all leading to longer waits at traffic lights and reduced system capacity. The goal for the Zion Crossroads UDA should be to plan for new local streets that stay below traffic levels that warrant signalization. When the TND pattern spreads traffic over several smaller roads, traffic at these intersections may fall below rates at which signalization is warranted, or, if a signal is necessary, its cycles will be less complex and less time consuming.

Relationship to regional traffic network

An additional feature of TND street patterns is that TND developments make multiple connections to existing roads, and to adjacent developments. Sprawl subdivisions are usually self-contained, with a single entrance from a major road. This means that to visit an adjacent development, a resident would have to drive onto the arterial highway or major collector road and then enter the adjacent development.

Major roads like Route 250 are intended to serve regional traffic patterns, and are not designed to function well with high levels of frontage access. The result is increased travel time and trip distance while further diminishing the capacity and function of the existing system. Over time, as arterial traffic increases, the trend is to add lanes to the existing system rather than building another way to access developed areas.

There are very few existing transportation connections within the Zion Crossroads UDA and Community Planning Area. Through future TND development, the County should be considering requiring road connections between new developments in order to create a larger transportation network over time. By following this TND street pattern, the County can minimize the impact of new developments on Routes 15 and 250 and their major intersection.

Pedestrian and Non-car trips

The density, mix of uses, and connected streets that are key features of all TNDs make it possible to navigate the development, and possibly nearby areas, without a car at times. New development should ideally create a village center for Zion Crossroads, within a walkable distance from residential areas. While this doesn't mean that cars aren't necessary in TND communities, it does mean that certain trips, for shopping, dining out, or visiting neighbors,

might be short enough to consider walking or bicycling. The narrower TND street, with a more compact intersection design and smaller curb radii, better accommodates pedestrians and cyclists in a safe and comfortable way to make non-car trips more desirable.

The number of trips made without a car will vary widely depending on the features of the town center, as well as factors like weather. However, some case studies of TNDs reveal high levels of internal traffic capture, showing that among people shopping and dining in TND commercial areas, as many as 18 percent had traveled there on foot (*2004 study of Southern Village - Chapel Hill, North Carolina by the Carolina Transportation Program*). This represents an 18 percent reduction in traffic over single-use suburbs where no walking trips are possible due to long distances and unfavorable conditions between residential and commercial areas.

Safer Streets

The inherently slower speed of TND neighborhood streets when compared to highways and collector roads means greater safety for both drivers and pedestrians. With cars moving at a reasonable in-town speed, pedestrians are more easily seen by drivers and have more time to cross streets. Slower automotive speeds also increase safety for drivers, with damage and injury reduced when collisions do occur.

Improved emergency response

Another safety issue presented by sprawling and disconnected suburban streets is their effect on emergency response by fire and rescue services. Sprawling suburbs mean longer distances to travel between fire and rescue facilities and some homes, while the disconnected nature of cul-de-sac streets means traveling indirect routes to answer calls. The proximity and connectivity of TND communities has the potential to shorten emergency response times.

Quality of life

Quality of life in TND communities is difficult to measure but is apparent in more ways than one. The goal is to create roads and neighborhoods that have a human scale and functionality. TND communities might be described as healthy for two principal reasons. First, these places tend to have much greater levels of neighborhood social interaction, with residents experiencing a sense of belonging to a community. In effect, they are more “livable”. This community vitality promotes the development and serves to attract new residents and businesses, as well as to further promote the TND pattern for future developments. Second, the individual residents of a TND may see health benefits from walking or bicycling within the community in ways that aren’t seen in conventional suburbs due to the safety concerns of walking or cycling where appropriate facilities are not present, or where greater travel distances and high speed traffic discourage anything but automobile travel. Right-of-way landscaping, civic spaces, street lighting, clearly identified crosswalks, and coordinated streetscape elements also attribute to the quality of life in a TND.

TND STREET FEATURES

The streets of Traditional Neighborhood Developments are necessarily different from the streets in conventional suburban developments. Because the density of TNDs encourages walking, biking, and general community activity, the streets of the TND are designed more completely than those of the conventional suburb. The concept of “complete streets” should focus on the following major objectives:

- Continuity of street design throughout the community
- A hierarchy of street scale to emphasize important connections or areas
- Connectivity of pedestrian and vehicular infrastructure
- Comprehensive landscaping as an aesthetic and functional element of the street
- Building frontage guidelines to create an ordered and uniform street wall

Many suburban developments in Fluvanna have abnormally wide pavements and broad, clear shoulders that promote high speeds. In order to make TND streets safe for pedestrians and cyclists, the speed of cars is slowed somewhat. Additional features are also added to the street to increase the safety and comfort of pedestrians, as well as to make for a more visually interesting environment.

Narrow lanes and streets

By narrowing driving lanes, the TND street slows drivers to speeds that are safer for cars, pedestrians, and cyclists alike. Due to the increased density of TND communities, slower speeds do not necessarily mean longer trips, as destinations are much closer. In many suburban areas, lane widths are a minimum of 16 feet, while TND streets typically specify lanes of 12 feet or less. The grid, or network, street pattern typical of TNDs also divides traffic between multiple small roads, rather than combining traffic onto multilane collector roads as in suburban locations, meaning fewer lanes for pedestrians to cross and generally safer conditions. Traffic calming techniques, including speed bumps or bulb-outs at intersections, can further slow traffic and protect pedestrians and cyclists.

Sidewalks and crosswalks

The key feature of TND streets is that they should be designed for multiple users, not solely for drivers. The streets within a TND community should all have sidewalks, almost always on both sides of the street. Sidewalks are often five feet wide in residential areas, and separated from the street by a planting zone. This separation gives the sidewalks a safer feel, removed from moving cars. Given their importance in supplementing the civic spaces in the community, commercial street sidewalks must be much wider to accommodate busier uses, and may also provide for café space. Crosswalks must be clearly marked within the street. The use of contrasting materials, or hardscaping, such as brick or stone can make crosswalks stand out, as well as signal to drivers to slow for pedestrians.

Street trees

The presence of evenly spaced trees along a street creates a sense of enclosure that slows traffic, while also providing shade to pedestrians in warm climates, and making for a generally more attractive street environment. On residential streets, trees are commonly planted in a four to eight foot planting zone between the street curb and sidewalk. For commercial streets, trees may be planted in planting beds, or may be installed in tree grates to create additional sidewalk space.

On street parking

In contrast to typical suburban construction that includes both roads and large parking lots on individual commercial parcels, TND streets are designed to include on-street parking. This parking arrangement works toward the TND community's land use goals, as well as its goals for multi-use streets. By parking within the street rather than on individual parcels, the TND can reach much higher densities. In addition, a row of parked cars forms a buffer between moving traffic and pedestrians to give sidewalks a safer and more pleasant feel.

Buildings close to the street

Instead of the minimum setback lines established by traditional zoning codes to ensure that buildings aren't built too close to the street, TND communities are often governed by build-to lines to ensure that structures aren't built too far back from the street. Shallow front setbacks help TNDs achieve their goals of higher density, as well as their street design goals. While in a car-only suburb, buildings near the street might block sight lines and slow traffic, TNDs desire slower traffic, as well as convenience for pedestrians. With closely set buildings and on-street parking, pedestrians do not have to cross parking lots to reach the fronts of buildings as they would in suburban settings.

Street furniture

An additional enhancement of TND streets over traditional suburban streets is the provision of street furniture. Street furniture includes benches, bicycle racks, bollards, planters, and other accessories placed on or near TND streets and sidewalks for the convenience of non-automobile travelers. At the same time, features not friendly to pedestrians and cyclists, such as trash pickup are often handled in alleys or other off-street locations.

TND Street Example

The example in *Figure T-6* below shows a model TND street, for use in residential areas of master planned TND communities. With narrow travel lanes of 10-12 feet, TND streets provide access to homes, but does not allow or promote high speeds. Parking is included along the street in 7-8 foot wide parallel spaces. Additional parking, and access to garages, is usually provided in a mid-block alley in TND residential areas. This example includes 5 feet of planting area between parked cars and the sidewalk. This area provides a buffer between cars and people, and is a place to plant street trees for aesthetics and shade. All TND streets should include sidewalks on both sides; in this case, sidewalks are 5 feet wide. Behind the sidewalk is the private property of the individual house lots.

Other TND streets might include those for commercial areas, where lanes and sidewalks might be wider, but that still include landscape space and on-street parking. One-way streets are also possible when development includes a grid street pattern as in TNDs. Developers of TND projects should strive for smaller-scaled streets, while also considering local and state construction standards, and the needs of commercial and emergency vehicles.

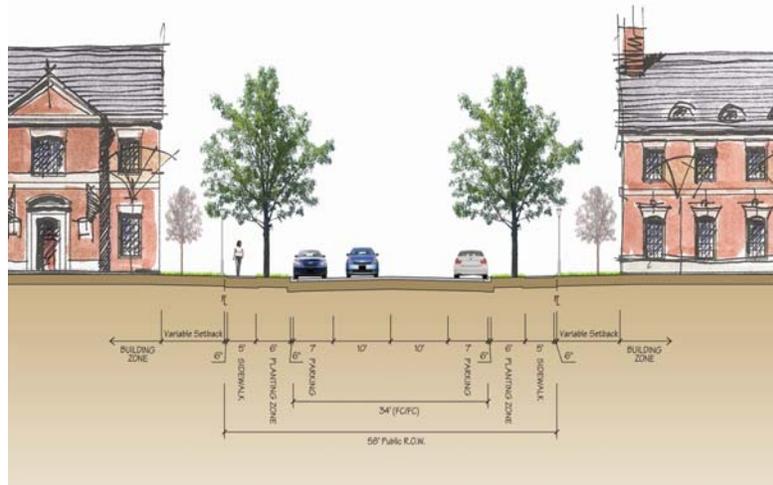


Figure T-7, Model TND Street



COUNTY OF FLUVANNA

"Responsive & Responsible Government"

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STAFF REPORT

To: Fluvanna County Board of Supervisors
Case Number: ZTA 11:03

From: Andrew Pompei
Date: November 16, 2011

General Information: This request is to be heard by the Board of Supervisors on Wednesday, November 16, 2011 at 7:00 pm in the Circuit Courtroom in the Courts Building.

Applicant/Representative: Fluvanna County

Requested Action: A request to amend the Fluvanna County Zoning Ordinance to update and strengthen regulations regarding Planned Unit Development (PUD) districts.

Location: Not Applicable

Zoning History: Not Applicable

Analysis

The applicant is proposing to amend Article 14 (Planned Unit Development District) of the Fluvanna County Zoning Ordinance. The proposed amendments to the Planned Unit Development (PUD) regulations are intended to make the zoning district more functional and compliant with state legislation related to Urban Development Areas (UDAs). The provisions would allow and encourage the construction of compact, mixed-used projects that adhere to the principles of Traditional Neighborhood Development (TND).

Project History

The proposed amendments to the Zoning Ordinance stem from state mandates. Passed in 2007 with subsequent amendments, Virginia Code § 15.2-2223.1 requires fast-growing localities statewide to delineate at least one UDA within their comprehensive plans. The UDA must be large enough to accommodate the growth anticipated over the next 10 to 20 years. New development is required to meet minimum density requirements. The comprehensive plan must promote principles of traditional neighborhood design within the UDA. Since Fluvanna County had a growth rate greater than fifteen percent (15%) between 1990 and 2000, it was required to create its own UDA.

In 2010, the Virginia Department of Transportation (VDOT) offered grants to communities that requested assistance for the development of their UDAs. Earlier this year, the County hired The

Cox Company to re-evaluate its UDA policies. The Cox Company has recommended that the County use several tools to strengthen its UDA policies. One of the recommendations was to amend the PUD section of the Zoning Ordinance to better comply with state regulations.

The existing PUD ordinance was adopted in August 2009 (ZMP 09:02). Currently, there are no parcels in the County zoned PUD.

Text Amendments

The revised regulations would require new projects within PUD districts to incorporate characteristics of Traditional Neighborhood Design. The proposed changes address several different aspects of site design and application review, including:

- *Project Review*

In addition to the narrative, existing conditions map, and traffic impact analysis, the applicant must submit a PUD Application Plan, a transportation plan, street design guidelines, lot development criteria, and community design guidelines. The site and lot development standards must include the mix of land uses, the density of residential uses, the floor-area ratio of non-residential uses, building setbacks and yard densities, and the maximum project density. The Planning Director may determine whether or not the traffic impact statement must be consistent with VDOT 527 regulations, or if it may be completed with a more limited scope. The statement of intent was modified to specifically state that the PUD district is intended to be applied to privately-initiated zoning map amendments within the County's Community Planning Areas and Urban Development Areas.

- *Compact, High-Density Development*

The proposed PUD amendments allow for higher residential densities than those allowed in any other zoning district. Each type of residential use (single-family detached, townhouses, multi-family residences) has its own maximum densities. Within the Zion Crossroads UDA, there are minimum density requirements for both residential and commercial development; these standards are consistent with the minimum density requirements set forth in the state's UDA regulations (Virginia Code § 15.2-2223.1). A formula for calculating the site's maximum yield/development density is described within the amendments. In the application package, developers may specify their own minimum setbacks within the district, which must be included in a table submitted with the application package. There is no minimum area required for PUD projects within the Zion Crossroads UDA; currently, PUD projects proposed within the UDA must meet the size guidelines for the Zion Crossroads Community Planning Area, which requires a minimum district area of twenty (20) acres.

- *Mixed-Use, Mixed-Income Neighborhoods*

All uses permitted by-right in the residential (R-1, R-2, R-3 and R-4), business (B-1 and B-C), and limited industrial (I-1) zoning districts are permitted by-right within the proposed PUD district. The uses allowed in each proposed PUD district must be submitted with the application package.

- *Well-Designed Open Space*

The minimum open space requirements remain unchanged; at least thirty percent (30%) of the gross area of a PUD district must be preserved as open space, and at least fifteen percent (15%) of the total open space must accommodate active and/or passive recreational activities. However, the amendments allow the Planning Commission to decrease or eliminate certain open space requirements. For PUD projects within the Zion Crossroads UDA that are less than fifteen (15) acres in gross area, the applicant may contribute to a County fund instead of providing open space on-site; the County may use the fund to build recreational facilities within the Zion Crossroads UDA.

- *Preservation of Important Environmental Resources*

PUD proposals must respect existing environmental resources. The amended ordinance defines what significant environmental features must be delineated on the Existing Conditions Map (unsuitable soils, wetlands, FEMA-designated floodplains, etc.). The amendments also require applicants to submit a general stormwater management and best management practices master plan as part of the rezoning process.

- *Pedestrian-Oriented Street Network*

In recognition of the pedestrian-friendly, walkable nature of mixed-use PUDs, the Planning Commission may modify the parking standards for projects within the Zion Crossroads UDA. The applicant must submit a parking impact study that justifies the modification based on the mix of uses, the phasing of development, and other factors.

Comprehensive Plan

The proposed amendments are consistent with the goals of the Comprehensive Plan. The changes regarding the PUD section of the Zoning Ordinance relate to the following goals of the Comprehensive Plan:

- Develop land-use policies and regulations that will preserve and enhance the county's natural environment (*Natural Environment*: Goal 1)
- Effectively implement the Comprehensive Plan land-use strategies and the Future Land Use Map (*Land Use*: Goal 1).
- Enable well-planned, coordinated, and sustainable development to occur throughout the County (*Land Use*: Goal 2).

- Preserve and enhance Fluvanna’s unique identity and rural character (*Community Design: Goal 1*).
- Develop higher-density, walkable, mixed-use communities in the identified growth areas of the County (*Community Design: Goal 2*).
- Implement the County’s community planning areas, as shown on the Future Land Use Map (*Economic Development: Goal 2*).

The amendments would ensure that developers building within PUD districts create mixed-use, high-density communities that accommodate a variety of transportation options (walking, bicycling, etc.). The compact development patterns required by the PUD ordinance will help preserve the County’s rural atmosphere; more homes and businesses may be constructed in a smaller area, allowing developers to build a large number of units without sprawling into the countryside. These well-planned developments are inherently more sustainable than conventional suburban development, since they are less reliant on automobile-oriented transportation.

Utilizing the PUD provisions of the Zoning Ordinance is an implementation strategy outlined within the Comprehensive Plan. To help realize its vision of becoming “the most livable and sustainable community in the United States,” the Comprehensive Plan states that the County should:

- Designate, and enable the development of, community planning areas to allow appropriate development to be concentrated in these areas with adequate infrastructure (*Natural Environment: Goal 1, Strategy 1*).
- Utilize planned unit development (PUD) and rural residential zoning districts as an open-space preservation and sustainable development tool (*Natural Environment: Goal 1, Strategy 2*).
- Review zoning and subdivision regulations to maximize environmental benefits through best management practices such as low impact development, dark-sky lighting, quality and quantity stormwater controls, adequate buffering/screening, native landscaping, pervious surfaces, and walkability (*Natural Environment: Goal 1, Strategy 6*).
- Create a planned unit development district (PUD) to allow for the efficient implementation of the seven community planning elements in the context of traditional neighborhood development (TND) within the urban development area and each of the community planning areas (*Land Use: Goal 1, Strategy 2*).
- Revise the county’s zoning and subdivision ordinance so those land-use tools are consistent with the Comprehensive Plan’s goals and strategies (*Land Use: Goal 1, Strategy 4*).
- Develop new zoning and subdivision regulations that will further the desired growth patterns and property uses, as well as help to protect the rural preservation area (*Land Use: Goal 1, Strategy 5*).

- Amend and adopt zoning and subdivision regulations that allow for higher-density, compact developments for the community planning areas (*Community Design: Goal 2, Strategy 1*).
- Create a planned unit development zoning district (PUD) to allow for increased flexibility for commercial, industrial, and residential uses, as well as increased residential density within well-planned, mixed-use communities within the community planning areas (*Economic Development: Goal 2, Strategy 2*).
- Require the development of alternative transportation infrastructure such as sidewalks and trails in new major subdivisions, and sidewalks in commercial areas (*Transportation: Goal 3, Strategy 1*).

These implementation strategies are addressed through the proposed amendment of the existing PUD regulations. With the new amendments, the PUD zoning district will become a tool that better allows well-planned, mixed-use, compact development to occur within the Community Planning Areas.

Technical Review Committee

The Technical Review Committee Meeting was held on October 13, 2011. Several agencies commented on the request:

- The Health Department commented on the need to provide public water and sewer to PUD districts. The agency's representative stated that issues which may be relevant to wastewater and public drinking water should be addressed by the Virginia Department of Environmental Quality and the VDH Office of Drinking Water.
- The Virginia Department of Transportation (VDOT) stated at the meeting that it would review the proposed amendments to determine how they relate to their policies. After further review, VDOT had no comments.

Planning Commission

The Planning Commission reviewed the proposed text amendments at their regular meeting on October 26, 2011. The Planning Commission recommended approval with a vote of 6-0. Prior to the vote, there was no discussion regarding the proposed text amendments.

Conclusion

The proposed amendments are intended to update and strengthen the regulations regarding PUD districts. The changes ensure that proposed PUDs incorporate the concepts of traditional neighborhood design and better promote the goals of the comprehensive plan. With the amendments, the PUD ordinance will be fully compliant with Virginia's UDA regulations.

Suggested Motion

I move that the Board of Supervisors [approve/deny] the attached ordinance for ZTA 11:03, a request to amend Article 14 of the Fluvanna County Zoning Ordinance to update and strengthen regulations regarding Planned Unit Development (PUD) districts.

Attachments

- A: Application
- B: TRC Comments (Health Department)
- C: TRC Comments (VDOT)
- D: Proposed Text

Copy:
Applicant/Representative: Fluvanna County



COMMONWEALTH OF VIRGINIA
COUNTY OF FLUVANNA
Application for
Zoning Text Amendment

Owner of Record: Fluvanna County

Applicant of Record: _____

E911 Address: _____

E911 Address: 132 Main Street, Palmyra, VA 22967

Phone: _____ Fax: _____

Phone: 434-591-1910 Fax: 434-591-1911

Email: _____

Email: acoff@co.fluvanna.va.us

Representative: _____

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.

E911 Address: _____

Phone: _____ Fax: _____

Email: _____

Proposed amendment to the Zoning Ordinance: (attach additional sheets as necessary)

If the amendment proposes to replace existing text, please provide a full copy of the existing text for the affected section.

Location of Parcel: _____

Section: _____

Proposed Text: An ordinance to amend and reenact Article 14 of Chapter 22 of the Fluvanna County Code with respect to the regulation of Planned Unit Development (PUD) districts.

By signing this application, the undersigned owner/applicant authorizes entry onto the property by County Employees, the Planning Commission, the Board of Supervisors, and the Board of Zoning Appeals during the normal discharge of their duties in regard to this request.

Date: 9/30/11 Signature of Owner/Applicant: Dan K. Coffey

Subscribed and sworn to before me this 30th day of September, 2011 Register # 347136

My commission expires: 31 January 2012 Notary Public: May McNeal

OFFICE USE ONLY			
Date Received:	Pre-Application Meeting:	PH Sign Deposit Received:	Application #: <u>ZTA 11:05</u>
\$550 fee paid:			
Public Hearings			
Planning Commission		Board of Supervisors	
Advertisement Dates:	<u>13 & 20 Oct 2011</u>	Advertisement Dates:	
APO Notification:	<u>N/A</u>	APO Notification:	
Date of Hearing:	<u>26 Oct 2011</u>	Date of Hearing:	
Decision:		Decision:	

From: [StevenTugwell](#)
To: [Andrew Pompei](#)
Subject: FW: Comments for October 13th
Date: Friday, October 14, 2011 11:41:43 AM

From: Rice, Gary (VDH) [mailto:Gary.Rice@vdh.virginia.gov]
Sent: Thursday, October 13, 2011 2:17 PM
To: StevenTugwell
Subject: Comments for October 13th

Following comments from Health Department for 10/13/11 Agenda items.

1. CPA 11:01 - Issues which may be relevant to wastewater and public drinking water should be addressed by the Virginia Dept. of Environmental Quality and the VDH Office of Drinking Water
2. SUP 11:03 - No Comments
3. SUP 11:04 - Health Dept. will need a submittal to expand the existing sewage disposal system. Assessment and design of the system must be done by and AOSE.
4. ZTA 11:03 - Issues which may be relevant to wastewater and public drinking water should be addressed by the Virginia Dept. of Environmental Quality and the VDH Office of Drinking Water

Gary

From: [StevenTugwell](#)
To: [Andrew Pompei](#)
Subject: FW: TRC comments for the October 13, 2011 meeting.
Date: Friday, October 14, 2011 11:41:36 AM

From: Goodale, James E. [mailto:James.Goodale@VDOT.virginia.gov]
Sent: Friday, October 14, 2011 7:52 AM
To: StevenTugwell
Subject: TRC comments for the October 13, 2011 meeting.

CPA 11:01, Fluvanna County

I sent the package to Mark Wood And Chuck proctor for review.

SUP 11:03, National Communication Towers, LLC

The existing entrance used for access to construct the tower is sufficient enough to provide safe ingress and egress off the property, if any damages are made to the existing entrance they must be repaired. No permit is needed (VDOT).

SUP 11:04, Clifford H. Krammes

I met with Mr. Krammes on site and a discussion was held about the trees and brush to the left when exiting the driveway. The trees and brush were removed allowing for adequate sight distance to the left.

ZTA 11:03, Fluvanna County

Mark wood and Chuck Proctor will provide comments hopefully.

I will be at your office this morning to sign the plats for the Harris property.

James E. Goodale

Highway Permits & Subdivision

Zions Crossroads South

P.O. Box 1017

Troy, VA. 22974

(434) 589- 2358

**AN ORDINANCE TO AMEND AND RE-ENACT PORTIONS OF
CHAPTER 22, ARTICLE 14 “PLANNED UNIT DEVELOPMENT DISTRICT
(PUD)” OF THE FLUVANNA COUNTY CODE**

BE IT ORDAINED BY THE FLUVANNA BOARD OF SUPERVISORS, pursuant to Virginia Code Sections 15.2-2285, that the Fluvanna County Code be, and it is hereby, amended, by the revisions thereto of Section 22-14, as follows:

Article 14. PLANNED UNIT DEVELOPMENT DISTRICT (PUD)

Sec. 22-14-1. Statement of Intent

Planned unit developments (*PUDs*) are intended to promote the efficient use of land by allowing flexibility in design standards and variety in densities and land uses to preserve the rural areas of the county. Development of such districts shall be in accordance with an approved *PUD Application Package* ~~master plan~~ which should provide a variety and range of uses and densities in designated areas of the site.

Planned unit developments should be located within the designated growth areas of the county as set forth in the comprehensive plan, and should implement the goals of each Community Planning Area. Planned *unit* developments should provide unified development that incorporates new urbanism *and traditional neighborhood development* principles, which includes a mix of residential and commercial uses, an interconnected system of internal roads, pedestrian sidewalks and walkways and well planned access points along existing roadways. In addition to a mix of residential and commercial uses, planned developments should also provide a mix and variety of housing types.

The PUD District is intended to be applied to privately initiated zoning map amendments for land located within the County’s Community Planning Areas (CPAs) and the designated Zion Crossroads Urban Development Area (UDA). The Zion Crossroad UDA is located internal to the Zion Crossroads Community Planning Area, as depicted on the Future Land Use Map, as amended. The County’s designated CPAs and UDA include:

- a. Zion Crossroads Community Planning Area*
- b. Zion Crossroads Urban Development Area*
- c. Rivanna Community Planning Area*
- d. Palmyra Community Planning Area*
- e. Fork Union Community Planning Area*
- f. Columbia Community Planning Area*
- g. Scottsville Community Planning Area*

Sec. 22-14-2. Procedure for Rezoning

- (1) Prior to submitting an official rezoning application *for a PUD*, the applicant shall schedule a pre-application meeting with the Planning Director ~~and staff~~ *for an introductory work session to discuss the key elements and impacts of the proposed project rezoning request. The Planning Director and other County agency representatives may provide specific guidance on (a) application requirements, (b) timeframe for processing of the zoning map amendment application, (c) Comprehensive Plan compliance considerations, (d) identification issues related to public infrastructure and facilities, and (e) other matters as may be uniquely related to the applicant's property. At this meeting, the applicant shall present a preliminary sketch plan and other exhibits that depict the following: (a) general boundary and location of property subject to the PUD rezoning application, (b) land area to be contained within the PUD District, (c) graphic representation of the arrangement of interior sub-areas, (d) planned mix of land uses and densities, and (e) general approach to addressing transportation, infrastructure and community facilities.*

- (2) After the pre-application meeting with staff, the applicant shall submit an application for rezoning with the Fluvanna County Planning Department. The *PUD Application Package application* shall consist of ~~four~~ *the following primary sections: a narrative, an existing conditions map, a PUD Application Plan master plan, a transportation plan, street design guidelines, lot development criteria, community design guidelines, and a traffic impact analysis.*
 - (i) *PUD Application Package Narrative*
 - a. A general statement of objectives to be achieved by the ~~planned~~ *PUD* district including a description of the character of the proposed development and the market for which the development is oriented;
 - b. A list of all adjacent property owners;
 - c. Site *and lot* development standards, including but not limited to *mix of land uses, density for individual residential land uses, floor area ratios for non-residential uses, building setbacks and yard regulations, maximum heights, maximum project density, and lot coverage;*
 - d. Proposed utilities and implementation plan; *including documentation of adequate public facilities.*
 - e. Phased implementation plan;
 - f. Comprehensive signage plan;
 - g. Descriptions of any architectural and community design guidelines including but not limited to *a code of development, building designs, orientations, styles, lighting, etc.;*
 - h. Specific proffers *and conditions* (if proposed).

(ii) Existing Conditions Map

- a. Topography, including *the identification of steep slopes (>20%), to be prepared with minimum 2' contour elevations and 100' horizontal scale, and current boundary survey of the property subject to the PUD district;*
- b. Water features, including existing stream buffers and stormwater or erosion control measures;
- c. Roadways;
- d. Structures;
- e. Tree lines;
- f. Major utilities;
- g. Significant environmental features, *including unsuitable soils for land development purposes, wetlands, and FEMA designated 100-year floodplains;*
- h. Existing and proposed ownership of the site along with all adjacent property owners;
- i. Zoning of the site and adjacent properties.
- j. *Locations of public improvements and facilities, including rights of way and easements, as may be recognized by the Comprehensive Plan, the Future Land Use Map, the Official Transportation Map, or State transportation plans, as may be applicable.*

(iii) PUD Application Package ~~Master Plan~~

The *PUD Application Package shall include a PUD Application Plan (master plan)* ~~preliminary master plan shall~~ *to be prepared to a horizontal scale of 1"=100' or as otherwise may be approved by the Planning Director to be of sufficient clarity and scale to accurately identify the location, nature, and character of the proposed planned unit development (PUD) district. At a minimum, the PUD Application Plan* ~~preliminary master plan~~ *shall include the following:*

- a. Proposed *PUD master plan layout* ~~of~~ *and supporting land use documentation (tables, charts, etc.) for all proposed land uses within the PUD district, including the general location of uses, types of uses, mix of uses, lot types, density range of uses, and floor area ratio ranges;*
- b. Methods of access from existing state maintained roads to proposed areas of development;
- c. General ~~road~~ *street* alignments and parking areas, *including proposed street sections and standards;*
- d. General alignments of sidewalks, bicycle and pedestrian facilities;
- e. ~~A general utility plan~~ *Schematic utility plans*, indicating the *infrastructure and facilities to serve the development, including but not limited to: water,*

sewer and storm drainage improvements, lines, pump stations, treatment facilities, offsite improvements as needed, electrical substations, etc.;

- f. A general plan showing the location and acreage of the active and passive recreation spaces, parks, *civic areas*, and other public open areas;
- g. A general overall landscaping layout that includes methods of screening and buffering from adjacent properties and existing public right-of-ways, as well as stream buffers;
- h. A general stormwater management *and best management practices master plan* that includes how negative impacts to nearby streams, wetlands, surface water, and groundwater resources as a result of development would be avoided and mitigated;
- i. Phased development areas. Subsequent subdivision plats and site plans should be closely correlated with master plan phases.
- j. *A schematic grading plan for the area of the PUD property proposed for development, with finished grades to be prepared at a 5' contour interval.*
- k. *Documentation and plan demonstrating general compliance with VDOT State Secondary Street Acceptance requirements and other requirements for public streets and intersections.*



Planned Unit Development Master Plan

(iv) Traffic Impact Analysis

~~A traffic impact analysis shall be submitted with the application package and reviewed by the Virginia Department of Transportation (VDOT) prior to the Planning Commission public hearing.~~

- a. *The Planning Director shall determine whether or not the subject PUD District project shall require a traffic impact statement to be prepared consistent with VDOT 527 regulations.*
- b. *If a 527 traffic impact analysis is required, the Applicant shall prepare and submit a Pre-Scope of Work Meeting Form to the County on or before the date of formal submission of the zoning district amendment application. The Pre-Scope form shall be processed, reviewed by and between the County, VDOT and the Applicant in accord with adopted regulations and procedures.*
- c. *If a 527 Traffic Impact Analysis is not required, the Applicant shall meet with the Planning Director to determine the required scope for a traffic analysis for the PUD project. The Planning Director shall approve the elements to be addressed in the study scope. The traffic analysis shall be submitted with the zoning amendment application. Minimum requirements may include the following:*
 - (1) *Existing traffic counts (AM and PM peak hour) at intersections to be identified by the County.*
 - (2) *Trip generation estimates for the planned land uses within the proposed development, employing Institute of Transportation Engineers (ITE) methodologies.*
 - (3) *Trip distribution and assignments to the existing road network of traffic projected for the development at full-buildout.*
 - (4) *Estimates of background traffic growth on impacted streets and highways.*
 - (5) *Analysis of future conditions, to include Highway Capacity Manual (HCM) level-of-service calculations for impacted intersections.*
 - (6) *Signal warrants analysis.*
 - (7) *Statement of recommended transportation improvements to provide adequate levels of service for the traffic generated by the proposed project.*

- (3) The *PUD* application package shall not be scheduled for consideration by the Planning Commission until the Planning Director has determined that the package is complete. Except as the Planning Director may determine otherwise in a particular case, for reasons beyond the control of the applicant, any application package which is not complete within 30 days after its submission shall be deemed to have been withdrawn and shall not be further processed. Once the Planning Director has determined the application package to be complete, the following process shall commence:
 - (i) The Planning Commission shall receive a public presentation on the proposed development at a regularly scheduled meeting, prior to advertising for a public hearing;
 - (ii) The Planning Commission may schedule one or more work sessions to discuss the proposed development;
 - (iii) Once a public hearing has been conducted by the Planning Commission, a recommendation shall be forwarded to the Board of Supervisors for their consideration;
 - (iv) The Board of Supervisors may schedule one or more work sessions to discuss the proposed development and the Planning Commission recommendation, prior to conducting their public hearing;
 - (v) The plan approved by the Board of Supervisors shall constitute the final master plan for the PUD district.
- (4) All conditions and elements of the plan as submitted, including amendments and revisions thereto, shall be deemed to be proffers once the Board of Supervisors has approved the final master plan. All such conditions and elements shall be enforceable by the County pursuant to Section 22-17-9 of this Code.
- (5) The approved final master plan shall serve as the sketch plans for the subdivision and site plan process.
- (6) Prior to development of the site, a final site development plan pursuant to Article 22-23 of the zoning ordinance, shall be submitted for administrative review and approval for any business, limited industrial, or multi-family development.
- (7) Additionally, if any land within the district is to be subdivided, preliminary and final subdivision plats pursuant to the subdivision regulations of Chapter 19 of the Fluvanna County Code shall be submitted for administrative review and approval prior to development of the site. Staff will determine if the submitted preliminary plats are in accordance with the approved final master plan.
- (8) If staff determines that the preliminary or final subdivision plats or final site plan are not in accord with the approved final master plan, such plans will be sent to the Planning Commission for review. If the Planning Commission determines that such plans are not in accord with approved final master plan, the applicant shall then submit sketch plans for review and approval by the Planning Commission. The sketch plans shall either be in accord with the approved final master plan, or a master plan amendment shall be applied for, in which case the amendment procedure set out in the zoning ordinance shall be followed.

Sec. 22-14-3. Character of Development

The goal of the PUD district is to allow for and encourage development that incorporates new urbanism principles which includes:

- (1) Pedestrian orientation;
- (2) Neighborhood friendly streets and paths;
- (3) Interconnected streets and transportation networks;
- (4) Parks, *recreation improvements*, and open space as amenities;
- (5) Neighborhood centers *and civic space*;



Planned Unit Development

- (6) Buildings and spaces of appropriate scale;
- (7) Relegated parking;
- (8) Mixture of uses and use types;
- (9) Mixture of housing types and affordability;
- (10) Clear boundaries with any surrounding rural areas;
- (11) Environmentally sensitive design (i.e., sustainability and energy efficiency).
- (12) *Adequate public facilities and infrastructure to serve the community.*

An application is not necessarily required to possess every characteristic of the PUD district as delineated above in order to be approved. The size of the proposed district, its integration with surrounding districts, or other similar factors may prevent the application from possessing every characteristic.

Sec. 22-14-4. Uses Permitted By-Right

In the PUD district, all uses permitted by-right in the residential (R-1, R-2, R-3 and R-4), business (B-1 and B-C) and limited industrial (I-1) zoning districts may be permitted as enumerated in the final *PUD application package* ~~master plan~~. Uses not specified within the *PUD application package* ~~master plan~~ shall not be permitted. (*See Planning Staff for matrix for use by applicant to designate proposed by-right land uses to be included in the PUD district. The applicant's completed table shall be established as a condition of approval of the PUD Application Package.*)

Sec. 22-14-5. Uses Permitted by Special Use Permit

One or more of the uses permitted by special use permit in the residential and business zoning districts may be permitted in the PUD district, as enumerated in the final *PUD application package* ~~master plan~~, upon issuance of a special use permit by the Board of Supervisors. Uses not specified within the *PUD application package* ~~master plan~~ shall not be permitted. (*See Planning Staff for a matrix for use by applicant to designate proposed special use permit uses to be included in the PUD district. The applicant's completed table, including special conditions imposed during the zoning application process, shall become an element of the PUD application package.*)

Sec. 22-14-6. Minimum Area Required for a Planned Unit Development

- (1) PUD districts shall be located on a single parcel of land or separate but contiguous parcels which are, or proposed to be, under common ownership, subject to approval of the rezoning application. The minimum area required for a PUD district shall be as follows:
 - (i) Zion Crossroads Community Planning Area: 20 acres
 - (ii) *Zion Crossroads Urban Development Area (applicable to a PUD district application on designated UDA land located within the Zion Crossroads CPA): no minimum area required.*
 - (iii) ð Rivanna Community Planning Area: 10 acres
 - (iv) ñ Palmyra Community Planning Area: 5 acres
 - (v) ò Fork Union Community Planning Area: 5 acres
 - (vi) ó Columbia Community Planning Area: 5 acres
 - (vii) ô Scottsville Community Planning Area: 5 acres

- (2) Additional land area may be added to an established PUD district if it is adjacent to and forms a logical addition to the approved development. The procedure for an addition shall be the same as if an original *PUD zoning amendment* application was filed, and the requirements of this article shall apply, except the minimum acreage requirement.

Sec. 22-14-7. Open Space, Recreation, Parks and Civic Areas

- (1) *In the Community Planning Areas, not less than 30% of the gross area of a PUD district shall be preserved as open space, provided that supplemental regulations for application to the Zion Crossroads UDA apply as indicated herein below. The required 30% ~~Open~~ open space may include private common and public open areas; perimeter open space; buffers between various uses, densities and adjacent properties; ~~recreation areas and facilities~~; recreational space, neighborhood parks, civic areas; easements; water bodies and any undisturbed land not occupied by building lots, structures, streets, ~~roads~~, and parking lots. By way of this section, yards of individual residences shall not be considered open space.*
- (2) Land designated for future facilities (i.e. schools, fire and rescue stations, places of worship, daycare centers, etc.) shall not be included toward the open space.
- (3) Not less than 15% of the total open space shall be provided for active and/or passive recreational activities.
- (4) Private common open areas shall be owned, maintained and operated by a property owner's association. A property owner's association document shall be prepared declaring and specifying the care and maintenance of the common areas. This document shall be reviewed and approved by the Fluvanna County Attorney prior to final approval.
- (5) *Upon request of the Applicant, the Planning Commission, at its sole discretion, (a) may decrease or eliminate certain requirements for open space and recreation land and improvements in a PUD District project, provided that the revised regulations shall be established and conditioned by the PUD Application Package.*
- (6) *For PUD projects in the Zion Crossroads UDA that are less than fifteen (15) acres in gross area, the Applicant may contribute to a pro-rata share fund lieu of provision for all or a portion of the required open space. The County shall reserve and employ these funds for the purpose of community open space, park, recreation, or civic space development within the Zion Crossroads Community Planning Area.*
- (7) *For PUD projects in the Zion Crossroads UDA with a gross area of fifteen (15) acres) or greater, the quantity, location, mix, type, quality and phasing of open space, civic space, parks, recreation areas, buffer areas, and protected natural areas shall be consistent with the policies of the Comprehensive Plan or other criteria for traditional neighborhood development as may be established by the County. These areas shall be delineated on the PUD Application Plan and may include greens, squares, plazas, community centers, club houses, swimming facilities, outdoor recreational fields, trails, pocket parks, or community gardens.*



Open Space

Sec. 22-14-8. Density

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

- (i) ~~Zion Crossroads Community Planning Area: 10 dwelling units per acre~~
- (ii) ~~Rivanna Community Planning Area: 6 dwelling units per acre~~
- (iii) ~~Palmyra Community Planning Area: 4 dwelling units per acre~~
- (iv) ~~Fork Union Community Planning Area: 4 dwelling units per acre~~
- (v) ~~Columbia Community Planning Area: 6 dwelling units per acre~~
- (vi) ~~Scottsville Community Planning Area: 4 dwelling units per acre~~

(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%).*

PUD District Density Regulations								
Community Planning Area	Minimum & Maximum Density							
	Dwelling Units per acre for Residential – Floor Area Ratio for Commercial							
	Single Family		Townhouses		Multifamily		Commercial	
	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		

Table 1: PUD Density Regulations

(3)(2) An increase in the maximum gross 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 2009 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)

Sec. 22-14-9. Setbacks

- (1) Minimum setbacks and yard regulations *for each planned land use* within the PUD district shall be specifically enumerated in *a table to be included in the PUD Application Package* ~~the master plan~~.
- (2) Lots at the perimeter of the PUD district shall conform to the setback requirements of the adjoining district, or to the setback requirements of the planned district, whichever is greater.
- (3) *Refer to the Comprehensive Plan for illustrative examples of residential lot types for traditional neighborhood development projects.*

Sec. 22-14-10. Streets

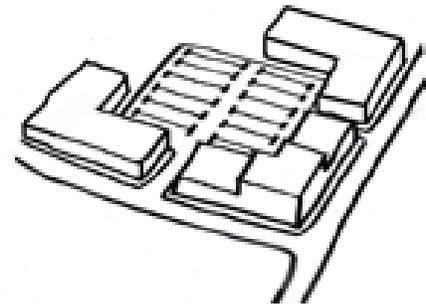
- (1) Streets within the PUD district may be either public or private, but shall conform to VDOT road design standards. Private subdivision streets shall be permitted in accordance with the provisions of Sec. 19-18-1(c) of this Code.
- (2) Alleys may be allowed within the PUD district provided they conform to either VDOT design standards or as otherwise prescribed in the master plan.
- (3) Sidewalks shall generally be provided on both sides of any streets, public or private, within the PUD district. Sidewalks shall conform to VDOT standards.
- (4) Traffic access and circulation within the PUD district shall be designed to provide safe accommodation of all users of the transportation network including pedestrians and bicyclists. Sidewalks, bicycle lanes and multi-use trails shall be

provided where appropriate. Mixed-use areas of the development shall be designed to give priority to pedestrian and bicycling traffic.

- (5) Internal ~~streets roads~~ within the PUD district shall be permitted to intersect with existing public ~~streets roads~~ to the extent necessary. Such intersections shall provide reasonable access and service to uses contained within the development and shall be developed using VDOT principles of access management.
- (6) *Refer to the Comprehensive Plan for illustrative examples of residential streets for traditional neighborhood development projects.*

Sec. 22-14-11. Parking

- (1) Off-street parking facilities in mixed-use, business, industrial, and multi-family residential areas shall generally be relegated behind the front building line.
- (2) On-street parking shall be permitted, where appropriate.
- (3) In addition to the regulations included herein, all off-street parking shall be provided in accordance with the off-street parking and loading requirements of Article 22-26 of the zoning ordinance.
- (4) *The provisions of Article 22-26 for the application of individual parking standards for projects located within the Zion Crossroads UDA may be modified at the discretion of the Planning Commission, provided that the Applicant submits a parking impact study that fully justifies the modification to the standards based on the mix of uses, the phasing of development, and other factors, including relationship of parking location to individual land uses within the project.*



Relegated Parking

Sec. 22-14-12. Height of Buildings

The height regulations for the PUD district shall be as follows:

PUD Maximum Heights						
Building Types	Community Planning Areas					
	Zion Crossroads	Rivanna	Palmyra	Fork Union	Columbia	Scottsville
Single-Family	45 35 Feet	45 35 Feet	45 35 Feet	45 35 Feet	45 35 Feet	45 35 Feet
Multi-Family	55 Feet	45 Feet	45 Feet	45 Feet	45 Feet	35 Feet
Business, Industrial and Non-Residential	75 Feet	55 Feet	45 Feet	45 Feet	55 Feet	35 Feet

- (1) For purposes of this section, height shall be the vertical distance of a structure measured from the highest finished grade to the highest point of the structure.
- (2) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials: 60 feet from grade, unless otherwise enumerated in the master plan.
- (3) Roof-mounted mechanical equipment (i.e. air conditioners, condensers, ductwork, etc.) shall not be visible at any point from ground-level. Parapet walls shall not extend more than four (4) feet above the maximum height permitted for buildings within the PUD district.
- (4) Buildings with a mixture of business and residential uses are subject to the height regulations of business, industrial and non-residential buildings.

Sec. 22-14-13. Utilities

- (1) All uses and structures within a PUD district shall be served by ~~either public or private~~ both central water and sewerage systems, *whether publicly or privately provided.*
- (2) No overhead utility lines shall be permitted within a PUD district. All utility lines, including but not limited to, electric, telephone, cable television lines, etc. shall be placed underground.
- (3) Telecommunications facilities are encouraged on the roofs of buildings within a PUD district to provide coverage to the district and surrounding area.

Sec. 22-14-14. Building Design and Architecture

- (1) Within the multi-family residential, business, industrial, and mixed-use areas of a PUD district, building design styles shall be compatible with each other and shall exhibit consistency in terms of their exterior materials, architectural style, size, shape, scale, and massing.
- (2) With the exception of detached single family dwellings, building facades shall maintain a consistent street edge. The street elevation of principal structures shall have at least one street-oriented entrance and contain the principal windows of the structure, with the exception of structures in a courtyard style.
- (3) Site plans shall include drawings, renderings, or perspectives of a professional quality which illustrate the scale, massing, roof shape, window size, shape and spacing, and exterior materials of the structure.

Sec. 22-14-15. Amendment

- (1) The Planning Director may approve a minor change to an approved *PUD Application Package and Application Plan* ~~final master plan for a PUD~~ at the written request of the owner of the development. For purposes of this section, a “minor change” refers to changes of location and design of buildings, structures, streets, parking, recreational facilities, open space, landscaping, utilities, or similar details which do not significantly change the character of the approved *PUD application package and PUD master plan*.
- (2) If the Planning Director determines that the requested change constitutes a significant change, or something more than a minor change to the approved *zoning application package* ~~master plan~~, then the owner may seek an amendment to the *PUD Application Package and Application Plan* ~~final master plan~~ from the Board of Supervisors. The application procedure for such an amendment shall be the same as the application procedure for the original approval.

Sec. 22-14-16 Construction of Article

The provisions of this Article shall be construed in such manner as to be consistent with other provisions of this Code to the extent that such construction may be reasonably applied. To the extent that any provision of this Article shall be inconsistent with any other provision of this Code, the provisions of this Article shall be deemed to be controlling.

Note: The term “shall generally”, as used in the context of this section of the ordinance, indicates that the stated requirement is expected unless there are compelling, specific, and extenuating circumstances for why it cannot be met.



COUNTY OF FLUVANNA

"Responsive & Responsible Government"

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

STAFF REPORT

To: Fluvanna County Board of Supervisors
Case Number: EST 07:02
Tax Map: Tax Map 43, Section A, Parcel 7

From: Darren Coffey
District: Fork Union
Date: November 16, 2011

General Information: This request is to be heard by the Board of Supervisors on Wednesday, November 16, 2011 at 2:00 pm in the Circuit Court Room in the Courts Building.

Owner/Applicant: William and Lynn Barber

Representative: Forbes R. Reback, Boyle, Bain, Reback & Slayton, Attorneys

Requested Action: To approve the demolition of the primary single family dwelling per Conservation Easement 07:02's conditions

Location: The affected property is located to the south of Route 609 (Hells Bend Road) and due west of Route 606 (Rivanna Mills Road), and lies adjacent to the Rivanna River. (Attachment B)

Existing Zoning: A-1, Agricultural, General

Planning Area: Rural Residential Planning Area

Existing Land Use: Wooded, open land; single family residence along with accessory structures

Adjacent Land Use: The surrounding area is zoned A-1, Agricultural, General.

Zoning History: The subject property was originally placed in a conservation easement in December 2007 (EST 07:02).

Purpose of Conservation Easements

As stated in Sec. 5.5-2. of the Fluvanna County Code, “The Board of Supervisors finds that a substantial area of rural land in the County has been converted to uses not consistent with or conducive to agriculture, forestry, or other traditional rural uses; that regulatory land-use planning tools may not, in themselves, be sufficient to inhibit the conversion of farm and forest land, clean water and airsheds, biological diversity, scenic vistas and rural character have a public value as well as a private value. Therefore, the Board of Supervisors has determined that it is advisable to establish a program, pursuant to Virginia Code Sec.10.1-1700, *et seq.*, by which the County can acquire conservation easements voluntarily offered by owners to serve as one means of assuring that the County’s resources are protected and efficiently used; to help in preserving open-space and the rural character of the County by (a) preserving farm and forest lands; (b) conserving and protecting water resources; (c) conserving and protecting biodiversity and wildlife and aquatic habitat; (d) improving the quality of life for the inhabitants of the County; (e) assuring availability of lands for agricultural, forestall, recreational, or open-space use; and (f) promoting tourism through the preservation of scenic resources”. (Ord. 06-21-06)

Comprehensive Plan:

Natural Environment

As of 2010, there were 27 conservation and historic easements in the County, totaling 12,022.5 acres. Most of the easements are owned by the Virginia Outdoors Foundation. The Board of Supervisors created a County easement program whereby the County, as a jurisdiction, may hold and protect easements. In 2007, the County accepted the first two easements under this program, one of which is the easement condition under consideration.

Land Use Planning Area

The Comprehensive Plan designates this area as within the Rural Preservation Planning Area. The Rural Preservation Planning Area encourages the preservation of open-space and discourages development.

Analysis:

The applicant is requesting permission to raze the primary single-family dwelling per the deed of easement Section 2, item 2 (i), which states,

- (i) One (1) single-family dwelling which exists on the date of this Easement which shall not be willfully razed or demolished without the prior written approval of the Grantee, but which may be repaired, restored, renovated or rebuilt in the event of damage or destruction due to causes beyond the Grantor’s control including but not limited to fire, flood, windstorm or earthquake, in which event the Grantee’s approval shall not be required;

The property is currently for sale and a prospective purchaser has expressed interest in demolishing the existing house and replacing it with a new house in the same location. The current owners, the Barbers, have stated that maintaining an old farmhouse has its challenges, both financially and structurally. The house’s exterior appearance is excellent and it has

obviously been well maintained, but there are underlying issues unique to an older dwelling which may make retaining the structure a financial and physical challenge and not feasible to a prospective buyer, in the opinion of the owners.

The nature of the easement is such that it is to protect the land and the scenic values of the property, particularly with respect to the viewshed from, and of, the Rivanna River. The easement restricts the size, number, and type of structures on the property for this purpose. The nature of the easement is not historic however, and there are no structures that have been formally declared historic on the site.

Conclusion:

The requested demolition of the primary single-family structure on the property does not appear to conflict with the intent of Chapter 5.5, Conservation Easement Program, or the Fluvanna County Comprehensive Plan. There is some concern over the impact to the river's viewshed of the removal of this house, however, the continuing deterioration of the structure over time will result in a negative impact to the property owners and the property's viewshed. Therefore, the Board's approval of the request to raze this structure, as required by the deed of easement, may be appropriate.

Suggested Motion:

I move that the Board of Supervisors **approve/deny** the request to demolish the primary single-family dwelling of Conservation Easement 07:02 (Tax Map 43-A-7) in accordance with the property restrictions associated with the Deed of Easement.

Attachments:

- A – Demolition Request from Attorney Reback
- B – Deed of Easement
- C – Chapter 5.5 of the Fluvanna County Code
- D – Pictures of the Subject Property

Copy:

Applicant – Mr. & Mrs. William Barber, 268 Rivanna Mills Road, Palmyra, VA 22963

Representative – Mr. Forbes R. Reback, Boyle, Bain, Reback & Slayton, 420 Park Street, Charlottesville, VA 22902

File

COPY

BOYLE, BAIN, REBACK & SLAYTON

Attorneys and Counsellors at Law

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Charlottesville, Virginia 22902

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Timothy I. Kelsey
C. Connor Crook
Jonathan S. Woodruff

October 26, 2011

Via First Class Mail

Mr. William P. Scudder
Fluvanna County Administrator
P. O. Box 540
Palmyra, Virginia 22963

Re: William T. Barber, Jr. & Lynn M. Barber
Conservation Easement dated 11/15/07
Request for Permission to Remove Dwelling, Tax Map No. 43-A-7

Dear Mr. Scudder:

I represented the Barbers in their 2007 donation of a conservation easement to the County pursuant to Chapter 5.5 of the County Code adopted June 21, 2006 (the "Easement").

The Barbers now wish to convey the property subject to the Easement to buyers who want to replace the existing principal dwelling on site with a new, larger dwelling reflecting their particular needs. The proposed contract will be contingent on their ability to do this.

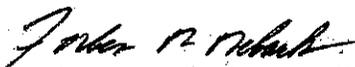
Paragraph 2(i) of the Easement requires written approval of the County prior to the demolition of the existing single family dwelling. My clients now seek that approval.

In that connection we request that the matter be placed on the Agenda of the November 16th Board Meeting and that County Staff recommend approval to the Board.

If there is anything further you need from us please let us know as soon as possible.

Your consideration of this request is most appreciated.

Sincerely,


Forbes R. Reback

FRR/elw

Cc: Mr. & Mrs. William T. Barber, Jr.
Mr. Steve Tugwell, Planner
Mr. Darren Coffey, Planner

Prepared by: Boyle, Bain, Reback & Slayton
420 Park Street
Charlottesville, VA 22902

Tax Map No.:43-A-7

Exempted from recordation tax
under the Code of Virginia (1950), as amended,
Sections 58.1-811 (A) (3), 58.1-811 (D)
and from Circuit Court Clerk's fee under Section 17.1-266

THIS DEED OF GIFT OF EASEMENT (this "Easement"), made this 15th day of November, 2007, by between and among William T. BARBER Jr. and Lynn M. BARBER, husband and wife, (together, the "Grantor"); and the COUNTY OF FLUVANNA, a political subdivision of the Commonwealth of Virginia, whose business address is P.O. Box 540, Palmyra, Virginia 22963 ("Grantee"); and BRANCH BANKING AND TRUST COMPANY, (the "Bank"); and BB&T - VA COLLATERAL SERVICE CORPORATION, Trustee (the "Trustee").

WITNESSETH:

WHEREAS, Grantor is the owner in fee simple of a parcel of real property situated on Hells Bend Road (State Route 609) in the Columbia Magisterial District of Fluvanna County, Virginia, containing 100.556 acres, more or less, as further described herein (the "Property"), and desires to give and convey to Grantee a perpetual conservation and open-space easement over the Property as herein set forth; and

WHEREAS, Grantee is a political subdivision of the Commonwealth of Virginia and a "qualified organization" and "eligible donee" under §170(h)(3) of the Internal Revenue Code of 1986, as amended (and corresponding provisions of any subsequent tax laws)(IRC) and Treasury Regulation §1.170A-14(c)(1), and is willing to accept a perpetual conservation and open-space easement over the Property as herein set forth; and

WHEREAS, Chapter 461 of the Acts of 1966, codified in Chapter 17, Title 10.1, §§10.1-1700 through 10.1-1705 of the Code of Virginia (1950) as amended (the "Open-Space Land Act"), declares that the preservation of open-space land serves a public purpose by curbing urban sprawl, preventing the spread of urban blight and deterioration and encouraging more economic and desirable urban development, helping provide or preserve necessary park, recreational, historic and scenic areas, and conserving land and other natural resources, and authorizes the acquisition of interests in real property, including easements in gross, as a means of preserving open-space land; and

WHEREAS, pursuant to §§10.1-1700 and 10.1-1703 of the Open-Space Land Act, the purposes of this Easement include retaining and protecting open-space and natural resource values of the Property, and the limitation on division, residential construction and commercial and industrial uses contained in Section II ensures that the Property will

remain perpetually available for agriculture, livestock production, game management, forest or open-space use, all as more particularly set forth below; and

WHEREAS, the Grantee is a public body within the definition in §10.1-1700 of the Open-Space Land Act and pursuant to the public policy of the Commonwealth to encourage preservation of open-space land, is authorized to hold real property or any estate or interest therein for the purpose of preserving the natural, scenic, historic, scientific, open-space and recreational lands of the Commonwealth; and

WHEREAS, this conservation and open-space easement in gross constitutes a restriction granted in perpetuity on the use which may be made of the Property, and is in furtherance of and pursuant to the clearly delineated governmental policies set forth below:

(i) Land conservation policies of the Commonwealth of Virginia as set forth in:

a. § 1 of Article XI of the Constitution of Virginia, which states that it is the Commonwealth's policy to protect its atmosphere, lands and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth;

b. The Open-Space Land Act cited above;

c. The Virginia Land Conservation Incentives Act, Chapter 3 of Title 58.1, §§58.1-510 through 58.1-513 of the Code of Virginia (1950) as amended, which supplements existing land conservation programs to further encourage the preservation and sustainability of the Commonwealth's unique natural resources, wildlife habitats, open spaces and forest resources;

d. Chapter 32, of Title 58.1, §§58.1-3230 through 58.1-3244 of the Code of Virginia (1950) as amended, which authorizes special use-value tax assessments for real estate devoted to agricultural, forestal, horticultural and open-space use;

(ii) Land use policies of the County of Fluvanna as delineated in:

a. its Comprehensive Plan 2000 adopted November 9, 2000 to which plan the restrictions set forth in this deed conform and which contains promotion goals, objectives and strategies hereinafter set out.

b. its County Code Chapter 5.5 adopted June 21, 2006 effective July 1, 2006 setting forth the County's Conservation Easement Program pursuant to which this Easement is given and accepted; and

WHEREAS, this Easement will yield significant public benefit to the citizens of Fluvanna County and the Commonwealth as set forth in Section I; and

WHEREAS, Grantor and Grantee desire to protect in perpetuity the conservation values of the Property as specified in Section I by restricting the use of the Property as set forth in Section II; and

WHEREAS, Grantee has determined that the restrictions set forth in Section II (the "Restrictions") will preserve and protect in perpetuity the conservation values of the Property, which values are reflected in Section I; and

WHEREAS, Grantee has determined that the Restrictions will limit use of the Property to those uses consistent with, and not adversely affecting, the conservation values of the Property and the governmental conservation policies furthered by the Easement; and

WHEREAS, Grantee, by acceptance of this Easement, designates the Property as property to be retained and used in perpetuity for the preservation and provision of open-space land pursuant to the Open-Space Land Act; and

WHEREAS, the Property possesses significant scenic, natural, open-space, wildlife habitat and historic values (the "Open-Space Values"), the preservation of which will benefit the citizens of the Commonwealth; and

WHEREAS, the Property lies in the vicinity of other lands under open-space easement deeded to the Virginia Outdoors Foundation, including the Stephen M. Foster conservation easement directly across the Rivanna River, and contributes to the open-space values of such other lands under easement; and

WHEREAS, the Property fronts on the south side of Hells Bend Road (State Route 609), and contributes to the scenic views enjoyed by the public therefrom; and

WHEREAS, the Property has over 1,350 feet of frontage on the north bank of the Rivanna River at Hells Bend, which has been designated a Virginia Scenic River pursuant to §10.1-416 of the Code of Virginia (1950) as amended and a component of the Virginia Scenic Rivers System, and contributes to the scenic views enjoyed by the public therefrom; and

WHEREAS, the Property contains agricultural fields, forest land, and wetlands, and a significant portion of it is adjacent to the Rivanna River, a tributary of the James River and a major waterway within the Chesapeake Bay watershed; and

WHEREAS, the protection of water quality within the Chesapeake Bay watershed and specifically along riparian corridors of significant waterways within the watershed such as the James River, contributes to the following governmental conservation policies: (1) the Virginia Water Quality Improvement Fund was enacted in part to meet the Commonwealth of Virginia's commitments under the Chesapeake Bay Agreement, § 10.1-2124 of the Code of Virginia (1950) as amended; (2) in the Chesapeake 2000 Agreement, the Governor of the Commonwealth of Virginia and the Administrator of the United States Environmental Protection Agency acknowledged that "future development will be

sustainable only if we protect our natural and rural resource land, limit impervious surfaces and concentrate new growth in existing population centers;" and (3) a goal of the Chesapeake 2000 agreement is to "expand the use of voluntary and market-based mechanisms such as easements ... to protect and preserve natural resource lands."; and

WHEREAS, protection of the waters of the Rivanna River and its tributaries, including Roundabout Creek, will implement the goals of the Chesapeake Bay Preservation Act; and

WHEREAS, the 2002-2003 Biennial Report of the Virginia Land Conservation Foundation, dated January 2004, states that meeting Virginia's land preservation goals under the Chesapeake 2000 Agreement "requires the conservation of 432,535 acres by 2010 or 61,791 acres per year." ; and

WHEREAS, the protection of the Property from intensive development will contribute to the goal of the Virginia Scenic Rivers Act to "protect and preserve certain rivers or sections thereof possessing natural or pastoral beauty"; and

WHEREAS, the Board of Supervisors of Fluvanna County has recognized the value of the Property for its agricultural and forestal resources by establishing its eligibility for Use Value Assessment for purposes of the County's real estate taxes; and

WHEREAS, the Property is a contributing resource to the Hells Bend Agricultural and Forestal District so designated by the Board of Supervisors of Fluvanna County pursuant to the Virginia Agricultural and Forestal Districts Act (§15.2-4300 et. seq. of the Code of Virginia); and

WHEREAS, the protection of the Property from intensive development will contribute to the goal of the 2002 Virginia Outdoors Plan to "encourage partnerships through the establishment of private/public conservation easements along designated Scenic Rivers"; and

WHEREAS, the Comprehensive Plan 2000 of Fluvanna County, Virginia, adopted by the Board of Supervisors of said County, includes Chapter 4 on the Environment which has the following goals among others:

Goal 1: Preserve and protect the natural, rural, and open-space character of Fluvanna County; and

Goal 2: Encourage agricultural and forestal operations and productivity and ensure the availability of agricultural lands for the continued production of crops, livestock and timber; and

Goal 3: Protect water resources; and

Goal 4: Protect Natural Resources, including water, soil, air, scenery, and fragile ecosystems . . . Promote the placement of conservation / scenic easements on lands within view of Rivanna [River] and seek to protect the scenic value of these lands when land use decisions and plans are made; and

WHEREAS, in the implementation of Goals 1 and 4 cited above, the Board of Supervisors of Fluvanna County "encourage(s)," "facilitate(s)" and "promote(s)" . . . the donation of open-space and conservation easements on land that meets the minimum IRS criteria for easement donation"; and

WHEREAS, the Grantee has determined that the restrictions hereinafter set forth (the "Restrictions") will preserve and protect in perpetuity the "Open-Space Values" of the Property, which values are reflected in the preceding paragraphs, the Grantee's evaluation of the Property, and the documentation of the condition of the Property as contained in its files and records; and

WHEREAS, the conservation purpose of this easement is to preserve and protect in perpetuity the Open-Space Values of the Property; and

WHEREAS, the Grantee has determined that the Restrictions will limit the uses of the Property to those uses consistent with, and not adversely affecting the Open-Space Values of the Property, the scenic values enjoyed by the general public, and the governmental conservation policies furthered by this easement.

WHEREAS, this Easement is intended to constitute "a restriction (granted in perpetuity) on the use which may be made of real property", which is "a qualified real property interest" under IRC § 170(h)(2)(c); and

WHEREAS, this Easement is granted "exclusively for conservation purposes" under IRC §170(h)(1)(C) because it effects "the preservation of certain open-space (including farmland and forest land)." The preservation of open-space on the Property as provided in this Easement (i) is pursuant to certain clearly delineated state and local governmental conservation policies referred to in the preceding preamble clauses that indicate the type of property identified by Grantees as worthy of preservation and (ii) will yield a significant public benefit, in that among other things it will: (1) protect the Property from inappropriate development, which existing and foreseeable trends in the vicinity of the Property indicate is increasing and which could contribute to the degradation of the scenic and natural character of the area; (2) prevent excessive development, soil disturbance, and pollution on the Property, thus enhancing water quality in the James River and the Chesapeake Bay; (3) is consistent with existing conservation programs in the area and augments open-space easements held by the Virginia Outdoors Foundation on other tracts of land in the Palmyra Magisterial District of Fluvanna County, Virginia, which also help to (a) preserve the scenic local and regional landscape in general and the historic landmarks therein, (b) attract tourism and commerce to the area, and (c) enhance the quality of life for area residents and visitors;

NOW, THEREFORE, in consideration of the premises and pursuant to Fluvanna County's Conservation Easements Program and the mutual covenants herein and their acceptance by Grantee, Grantor does hereby give, grant and convey to Grantee a conservation and open-space easement in gross over, and the right in perpetuity to restrict the use of, the Property, which is described in SCHEDULE "A" attached hereto and made a part hereof, and consists of 100.556 acres, more or less, located in Columbia Magisterial District, Fluvanna County, Virginia, on Hells Bend Road (State Route 609) to-wit:

[SEE ATTACHED SCHEDULE A]

The Property is shown as Tax Map No. 43-A-7 among the land records of the County of Fluvanna, Virginia. Even if the Property consists of more than one parcel for real estate tax or any other purpose, it shall be considered one parcel for purposes of this Easement, and the restrictions and covenants of this Easement shall apply to the Property as a whole.

SECTION I - PURPOSE

The purpose of this Easement is to preserve and protect the conservation values of the Property in perpetuity by imposing the restrictions on the use of the Property set forth in Section II and providing for their enforcement in Section III. The conservation values of the Property are its open-space, scenic, natural and historic values and its values as land preserved for protection of water quality, open-space and rural uses including agriculture, livestock production, wildlife habitat, game management and forestry.

SECTION II - RESTRICTIONS

Restrictions are hereby imposed on the use of the Property pursuant to the public policies set forth above. The acts that Grantor covenants to do and not to do upon the Property, and the restrictions that Grantee is hereby entitled to enforce, are and shall be as follows:

1. **DIVISION.** Division of the Property is prohibited. The Property shall not be sold or conveyed except as a whole.

Boundary line adjustments with adjoining parcels of land are permitted and shall not be considered a division of the Property, provided that Grantee is made party to the deed creating the boundary line adjustment and at least one of the following conditions is met:

- (i) The entire adjacent parcel is subject to a recorded open-space or conservation easement owned by Grantee or other appropriate entity, the terms and ownership of which are reasonably acceptable to the Board of Supervisors of the Grantee; or

(ii) The proposed boundary line adjustment shall have been reviewed and approved in advance by the Board of Supervisors of Grantee.

2. BUILDINGS AND STRUCTURES. No buildings or structures other than the following are permitted on the Property:

(i) One (1) single-family dwelling which exists on the date of this Easement which shall not be willfully razed or demolished without the prior written approval of the Grantee, but which may be repaired, restored, renovated or rebuilt in the event of damage or destruction due to causes beyond the Grantor's control including but not limited to fire, flood, windstorm or earthquake, in which event the Grantee's approval shall not be required;

(ii) One (1) secondary single-family dwelling, not to exceed 2,500 square feet of enclosed above-ground living area;

(iii) non-residential outbuildings and structures commonly and appropriately incidental to the dwellings permitted in subsections (i) and (ii) of this paragraph, and sized appropriately to serve as an amenity to single-family residential use, provided that the aggregate footprint of such non-residential outbuildings and structures for each permitted dwelling shall not exceed 2,500 square feet in ground area unless prior written approval shall have been obtained from Grantee that a larger footprint is permitted considering the purpose of this Easement and the scale of the proposed outbuilding or structure in relation to the surrounding area;

(iv) farm buildings or structures, except that a farm building or farm structure exceeding 2,500 square feet in ground area may not be constructed on the Property unless prior written approval for the building or structure shall have been obtained from Grantee, which approval shall be limited to consideration of the impact of the size, height and siting of the proposed structure on the conservation values of the Property. For purposes of this subparagraph, a farm building or structure shall mean a building or structure originally constructed and used for the activities specified in paragraph 3(i) below.

Grantor shall give Grantee 30 days' written notice before beginning construction or land clearing prior to construction or enlargement of any dwelling on the Property.

To protect the scenic values of the Property, no dwelling or other building or structure shall be constructed within 600 feet of the northern bank of the Rivanna River.

Private roads and utilities to serve permitted buildings and structures, and roads with permeable surfaces to serve other permitted uses, such as farming,

forestry or equestrian activities may be constructed and maintained. Underground public and private utilities whose construction and maintenance will not significantly impair the Property's conservation values may be constructed and maintained.

3. **INDUSTRIAL OR COMMERCIAL ACTIVITIES.** Industrial or commercial activities other than the following are prohibited: (i) agriculture, livestock production (animal husbandry), equine and equestrian activities and forestry, and related small-scale incidental commercial or industrial operations that Grantee approves in writing as being consistent with the conservation values of this Easement; (ii) processing and sale of products produced on the Property as long as no additional buildings are required; (iii) temporary or seasonal outdoor activities that do not permanently alter the physical appearance of the Property and that do not diminish the conservation values herein protected; and (iv) activities that can be and in fact are conducted within permitted buildings without material alteration to their external appearance. Temporary outdoor activities involving 100 or more people shall not exceed 7 consecutive days in any 90-day period without prior written approval of the Grantee. Notwithstanding any other provision of this easement, no commercial recreational use (except for *de minimis* commercial recreational uses) shall be allowed on the Property.

4. **MANAGEMENT OF FOREST.** Best Management Practices, as defined by the Virginia Department of Forestry, shall be used to control erosion and protect water quality when any timber harvest or land-clearing activity is undertaken. All material timber harvest activities on the Property shall be guided by a Forest Stewardship Management Plan approved by the Virginia Department of Forestry. The objectives of the Forest Stewardship Management Plan may include, but are not limited to, forest health, timber management, wildlife habitat, water and air quality, historic and cultural resource preservation and natural area preservation, or any combination thereof. Grantee shall be notified 30 days prior to the clearing of over 10 acres of forestland for grassland or crop land.

Non-commercial *de minimis* harvest of trees for trail clearing, firewood for Grantor's domestic use, trees that pose an imminent hazard to human health or safety, or removal of invasive species shall not require a Forest Stewardship Management Plan.

5. **GRADING, BLASTING, MINING.** Grading, blasting or earth removal shall not materially alter the topography of the Property except for (i) dam construction to create ponds, (ii) wetlands or stream bank restoration pursuant to a government permit, (iii) erosion and sediment control pursuant to a government-required erosion and sediment control plan, or (iv) as required in the construction of permitted buildings, structures, roads, and utilities. Best Management Practices, in accordance with the Virginia Erosion and Sediment Control Law, shall be used to control erosion and protect water quality in such construction. Grading, blasting or

earth removal in excess of one acre for the purposes set forth in subparagraphs (i) through (iv) above require 30 days' prior notice to Grantee. Generally accepted agricultural activities shall not constitute a material alteration. Surface mining, subsurface mining, dredging on or from the Property, or drilling for oil or gas on the Property are prohibited.

6. **ACCUMULATION OF TRASH.** Accumulation or dumping of trash, refuse, junk or toxic materials is not permitted on the Property. This restriction shall not prevent generally accepted agricultural or wildlife management practices, such as creation of brush piles, composting, or the storage of farm machinery, organic matter, agricultural products or agricultural byproducts on the Property.
7. **SIGNS.** Display of billboards, signs, or other advertisements is not permitted on or over the Property except to: (i) state the name and/or address of the owners of the Property, (ii) advertise the sale or lease of the Property, (iii) advertise the sale of goods or services produced incidentally to a permitted use of the Property, (iv) provide notice necessary for the protection of the Property, (v) give directions to visitors, or (vi) recognize historic status or participation in a conservation program. Temporary political signs are allowed. No signs visible from outside the Property shall exceed nine square feet in size.
8. **RIPARIAN BUFFER.** To protect water quality there shall be no plowing, cultivation or other earth-disturbing activity in a 50-foot buffer strip along the northern bank of the Rivanna River and the eastern bank of Roundabout Creek as measured from the top of the bank, except as may be reasonably necessary for (i) dam construction pursuant to Paragraph 5(i) above, (ii) wetland or stream bank restoration, or erosion control, pursuant to a government permit, (iii) fencing along or within the buffer area, (iv) construction and maintenance of stream crossings that do not obstruct water flow, and (v) creation and maintenance of foot or horse trails with unimproved surfaces. Within this buffer strip there shall be (a) no buildings or other substantial structures constructed, (b) no storage of compost, manure, fertilizers, chemicals, machinery or equipment, and (c) no removal of trees, except removal of invasive species or removal of dead, diseased or dying trees or trees posing an imminent human health or safety hazard. Mowing within buffer areas is permitted. There shall be no grazing of livestock in the buffer strip. Notwithstanding the foregoing, access to the Rivanna River for recreational purposes and a single crossing of Roundabout Creek for agricultural and equestrian purposes are permitted.

SECTION III – ENFORCEMENT

1. **RIGHT OF INSPECTION.** Representatives of Grantee may enter the Property from time to time for purposes of inspection (including photographic documentation of the condition of the Property) and enforcement of the terms of this Easement after permission from or reasonable notice to the Grantor or the Grantor's representative, provided, however, that in the event of an emergency,

entrance may be made to prevent, terminate or mitigate a potential violation of these restrictions with notice to Grantor or Grantor's representative being given at the earliest practicable time.

2. **ENFORCEMENT.** Grantee has the right to bring an action at law or in equity to enforce the Restrictions contained herein. This right specifically includes the right to require restoration of the Property to a condition of compliance with the terms of this Easement as existed on the date of the gift of the Easement, except to the extent such condition thereafter changed in a manner consistent with the Restrictions; to recover any damages arising from non-compliance; and to enjoin non-compliance by *ex parte* temporary or permanent injunction. If the court determines that Grantor failed to comply with this Easement, Grantor shall reimburse Grantee for any reasonable costs of enforcement, including costs of restoration, court costs and attorney's fees, in addition to any other payments ordered by the court. Grantee's delay shall not waive or forfeit its right to take such action as may be necessary to insure compliance with this Easement. Notwithstanding any other provision of this Easement, Grantor shall not be responsible or liable for any damage or change to the condition of the Property caused by fire, flood, storm, Act of God, governmental act or other cause outside of Grantor's control or any prudent action taken by Grantor to avoid, abate, prevent or mitigate damage or changes to the Property from such causes.

SECTION IV – DOCUMENTATION

Documentation retained in the office of Grantee including, but not limited to, the Baseline Documentation Report ("Documentation Report"), describes the condition and character of the Property at the time of the gift. The Documentation Report may be used to determine compliance with and enforcement of the terms of this Easement; however, the parties are not precluded from using other relevant evidence or information to assist in that determination. Grantor has made available to Grantee, prior to donating this Easement, documentation sufficient to establish the condition of the Property at the time of the gift. The parties hereby acknowledge that the Documentation Report contained in the files of Grantee is an accurate representation of the Property.

SECTION V – GENERAL PROVISIONS

1. **DURATION.** This Easement shall be perpetual. It is an easement in gross that runs with the land as an incorporeal interest in the Property. The covenants, terms, conditions and restrictions contained in this Easement are binding upon, and inure to the benefit of, the parties hereto and their successors and assigns, and shall continue as a servitude running in perpetuity with the Property. Landowner's rights and obligations under this Easement terminate upon proper transfer of Landowner's interest in the Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

2. **NO PUBLIC ACCESS.** Although this Easement will benefit the public as described above, nothing herein shall be construed to convey to the public a right of access to, or use of the Property. Grantor retains the exclusive right to such access and use, subject to the terms hereof.
3. **TITLE.** Grantor covenants and warrants that Grantor has good title to the Property, that Grantor has all right and authority to grant and convey this Easement and that the Property is free and clear of all encumbrances (other than utility and access easements) including, but not limited to, any mortgages not subordinated to this Easement.
4. **ACCEPTANCE.** Acceptance of this conveyance by Grantee is authorized by Virginia Code Section 10.1-1701 and the Conservation Easements Program of Fluvanna County and is evidenced by the signature of the Chairman of the Board of Supervisors of the Grantee in accordance with a resolution of the Board of Supervisors of Fluvanna County, Virginia adopted _____. Approval of this instrument as to form is evidenced by the signature of the Fluvanna County Attorney.
5. **INTERACTION WITH OTHER LAWS.** This Easement does not permit any use of the Property which is otherwise prohibited by federal, state, or local law or regulation. Neither the Property, nor any portion of it, shall be included as part of the gross area of other property not subject to this Easement for the purposes of determining density, lot coverage or open-space requirements under otherwise applicable laws, regulations or ordinances controlling land use and building density. No development rights that have been encumbered or extinguished by this Easement shall be transferred to any other property pursuant to a transferable development rights scheme, cluster development arrangement or otherwise.
6. **CONSTRUCTION.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purposes of the Easement and the policy and purposes of Grantee. If any provision of this Easement is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. Notwithstanding the foregoing, lawful acts or uses not expressly prohibited by this Easement are permitted on the Property. Grantor and Grantee intend that the grant of this Easement qualify as a "qualified conservation contribution" as that term is defined in Section 170(h)(1) of the Internal Revenue Code and Treasury Regulations §1.170A-14, and the restrictions and other provisions of this instrument shall be construed and applied in a manner that will not prevent this Easement from being a qualified conservation contribution.
7. **REFERENCE TO EASEMENT IN SUBSEQUENT DEEDS.** This Easement shall be referenced by deed book and page number, instrument number or other

appropriate reference in any deed or other instrument conveying any interest in the Property.

8. **NOTICE TO GRANTEE.** Grantor agrees to notify Grantee in writing at or prior to closing on any *inter vivos* transfer, other than a deed of trust or mortgage, of all or any part of the Property.
9. **TAX MATTERS.** The parties hereto agree and understand that any value of this Easement claimed for tax purposes as a charitable gift must be fully and accurately substantiated by an appraisal from a qualified appraiser as defined in IRS regulations (see Section 1.170A-13(c)(5)), and that the appraisal is subject to review and audit by all appropriate tax authorities. Grantee makes no express or implied warranties that any tax benefits will be available to Grantor from donation of this Easement, or that any such tax benefits might be transferable, or that there will be any market for any tax benefits that might be transferable. By its execution hereof, Grantee acknowledges and confirms receipt of the Easement and further acknowledges that Grantee has not provided any goods or services to Grantor in consideration of the grant of the Easement.
10. **MERGER.** Grantor and Grantee agree that in the event that Grantee acquires a fee interest in the Property, this Easement shall not merge into the fee interest, but shall survive the deed and continue to encumber the Property.
11. **ASSIGNMENT BY GRANTEE.** Grantee may not transfer or convey this Easement unless Grantee conditions such transfer or conveyance on the requirement that (1) all restrictions and conservation purposes set forth in this Easement are to be continued in perpetuity and (2) the transferee then qualifies as an eligible donee as defined in Section 170(h)(3) of the IRC as amended and the applicable Treasury Regulations.
12. **GRANTEE'S PROPERTY RIGHT.** Grantor agrees that the donation of this Easement gives rise to a property right, immediately vested in Grantee, with a fair market value that is equal to the proportionate value that the perpetual conservation restriction at the time of the gift bears to the value of the Property as a whole at that time.
13. **EXTINGUISHMENT, CONVERSION, DIVERSION.** Grantor and Grantee intend that this Easement be perpetual and acknowledge that no part of the Property may be converted or diverted from its open-space use except in compliance with the provisions of Section 10.1-1704 of the Open-Space Land Act which does not permit extinguishment of open-space easements or loss of open-space. Nevertheless, should an attempt be made to extinguish this Easement, such extinguishment can be made only by judicial proceedings and only if in compliance with Section 10.1-1704. In any sale or exchange of the Property subsequent to an extinguishment, Grantee shall be entitled to a portion of the proceeds at least equal to the proportionate value of this Easement computed as set forth in Section 12

above, but not to be less than the proportion that the value of this Easement at the time of extinguishment bears to the then value of the Property as a whole. Grantee shall use all its share of the proceeds from the sale of the Property in a manner consistent with the conservation purpose of this easement and the Open-Space Land Act.

14. **AMENDMENT.** Grantee and Grantor may amend this Easement to enhance the Property's conservation values or add to the restricted property, provided that no amendment shall affect this Easement's perpetual duration or reduce the Property's conservation values. No amendment shall be effective unless documented in a notarized writing executed by Grantee and Grantor and recorded among the land records of the County of Fluvanna, Virginia.
15. **SEVERABILITY.** If any provision of this Easement or its application to any person or circumstance is determined by a court of competent jurisdiction to be invalid, the remaining provisions of this Easement shall not be affected thereby.
16. **ENTIRE AGREEMENT.** This instrument sets forth the entire agreement of the parties with respect to this Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the easement.
17. **CONTROLLING LAW.** The interpretation and performance of this Easement shall be governed by the laws of the Commonwealth of Virginia.
18. **RECORDING.** This Easement shall be recorded in the land records in the Circuit Court Clerk's Office of the County of Fluvanna, Virginia, and Grantee may re-record it any time as may be required to preserve its rights under this Easement.

Branch Banking And Trust Company, successor to Branch Bank and Trust Company of Virginia, is the Noteholder under two certain Deeds of Trust, each dated March 15, 2004 of record in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia in Deed Book 570, Page 351 and in Deed Book 570, page 359 respectively, which subjects the Property to the Bank's liens. The Bank hereby consents to the terms and intent of this Easement, and agrees that the liens represented by said Deeds of Trust shall be held subject to this Easement and joins in this Deed to reflect its direction to the Trustee to execute this Easement to give effect to the subordination of both such Deeds of Trust to this Easement.

This Deed of Gift of Easement was executed and acknowledged by the Grantor on November 15, 2007 and thereafter delivered by the Grantor to the Grantee, which accepted the donated easement at the regularly scheduled meeting of its Board of Supervisors on December 5, 2007. The donation was completed in the year 2007 by delivery and acceptance of the Deed of Gift of Easement.

[counterpart signatures appear following pages]

[Counterpart signature page 1 of 3]

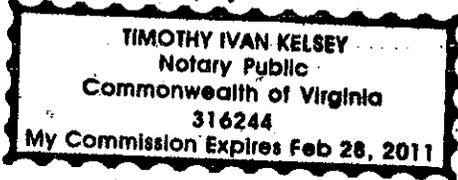
WITNESS the following signatures and seals:

[Signature] (SEAL)
Grantor: William T. Barber, Jr.

[Signature] (SEAL)
Grantor: Lynn M. Barber

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF CHARLOTTESVILLE, TO WIT:

The foregoing instrument was acknowledged before me this 15th day of
November 2007, by William T. Barber, Jr.



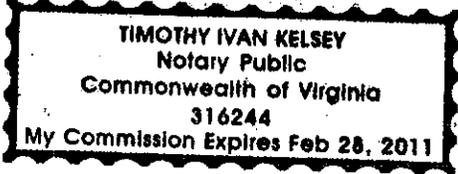
[Signature]
Notary Public

My commission expires: 02/28/2011

(SEAL)

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF CHARLOTTESVILLE, TO WIT:

The foregoing instrument was acknowledged before me this 15th day of
November 2007, by Lynn M. Barber.



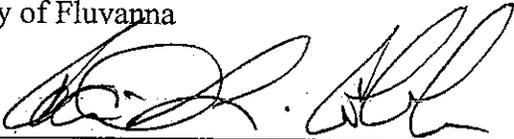
[Signature]
Notary Public

My commission expires: 02/28/2011

(SEAL)

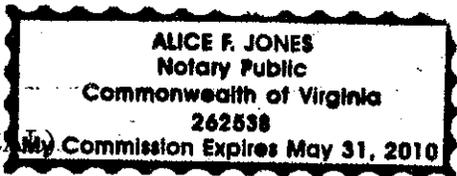
[Counterpart signature page 2 of 3]

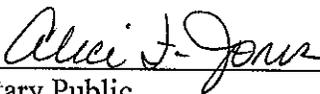
County of Fluvanna

By: 
Chairman, Board of Supervisors

COMMONWEALTH OF VIRGINIA,
COUNTY OF FLUVANNA, TO WIT:

The foregoing instrument was acknowledged before me this 5th day of December, 2007, by Cecil L. Cobb as Chairman of the Board of Supervisors on behalf of the County of Fluvanna.




Notary Public

My commission expires: 31 May 2010

APPROVED AS TO FORM:


Fluvanna County Attorney

[Counterpart signature page 3 of 3]

Branch Banking and Trust Company
Successor to Branch Bank and Trust
Company of Virginia

By: Lee E. Whitlow

Its: Vice President

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF Albemarle, TO WIT:

The foregoing instrument was acknowledged before me this 16th day of November, 2007, by Lee E. Whitlow (name of officer), as Vice President (title of officer) on behalf of Branch Banking And Trust Company, a North Carolina corporation, successor to Branch Banking and Trust Company of Virginia, a Virginia corporation, on behalf of the corporation.

AS
Notary Public Amy E. Haislip-Shelley

My commission expires: April 30, 2009

*I was commissioned as Amy E. Haislip
306079

BB&T-VA Collateral Service Corporation,
Trustee

By: Bryan E. Thomas

Its: Vice President

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF Albemarle, TO WIT:

The foregoing instrument was acknowledged before me this 16th day of November, 2007 by Bryan E. Thomas (name of officer), as Vice President (title of officer) on behalf of BB&T-VA Collateral Service Corporation, Trustee.

AS
Notary Public Amy E. Haislip-Shelley

My commission expires: April 30, 2009

*I was commissioned as Amy E. Haislip
306079

SCHEDULE A
LEGAL DESCRIPTION
TMP 43-A-7

Parcel One: Tax Map #43-A-7

All that certain tract or parcel of land situated in Fluvanna County, Virginia, fronting on State Route 609, containing 100.556 acres, more or less, and being more particularly described on a plat of Robert L. Lum dated July 29, 1982, recorded in the Clerk's Office of the Circuit Court for Fluvanna County, Virginia, in Deed Book 147, page 722, together with an appurtenant easement for ingress and egress to Rivanna Mills Road (State Route 606).

BEING the same property conveyed to the Grantor by deed of Nancy S. Bercaw, a widow, dated June 30, 1998, of record in the Clerk's Office aforesaid in Deed Book 342, page 723.

K:\Home\Diana\VOF EASEMENTS\Barber, William & Lynn\
2007 Barber Easement.doc

VIRGINIA: CLERK'S OFFICE OF THE CIRCUIT COURT OF FLUVANNA COUNTY	
St. R. Tax _____	The foregoing instrument with acknowledgment was admitted to record on <u>January 9</u> , 20 <u>08</u> at <u>12:08 P.</u> M. In D.B. <u>753</u> Page(s) <u>353-369</u> .
Co. R. Tax _____	
Transfer _____	
Clerk _____	
Grantor Tax _____	
_____	Recording costs paid as shown.
Total \$ _____	Teste: <u>Meghan K. Powell</u> , Deputy Clerk Bouson E. Peterson, Jr., Clerk

Chapter 5.5
CONSERVATION EASEMENTS PROGRAM¹

Sec. 5.5-1. Short title.

This Chapter shall be known and may be cited as the "conservation easements program" or "the Program", as the context may require. (Ord. 06-21-06)

Sec. 5.5-2. Purpose.

The board of supervisors finds that a substantial area of rural land in the County has been converted to uses not consistent with or conducive to agriculture, forestry or other traditional rural uses; that regulatory land-use planning tools may not, in themselves, be sufficient to inhibit the conversion of farm and forest land to other uses; and that farm and forest land, clean water and airsheds, biological diversity, scenic vistas and rural character have a public value as well as a private value. Therefore, the board of supervisors has determined that it is advisable to establish a program, pursuant to Virginia Code Sec. 10.1-1700, *et seq.*, by which the County can acquire conservation easements voluntarily offered by owners to serve as one means of assuring that the County's resources are protected and efficiently used; to help in preserving open-space and the rural character of the County by (a) preserving farm and forest lands; (b) conserving and protecting water resources and environmentally sensitive lands, waters and other natural resources; (c) conserving and protecting biodiversity and wildlife and aquatic habitat; (d) improving the quality of life for the inhabitants of the county; (e) assuring availability of lands for agricultural, forestal, recreational, or open-space use; and (f) promoting tourism through the preservation of scenic resources. (Ord. 06-21-06)

Sec. 5.5-3. Applicability.

The Program shall be available for all lands in the County, except those lands under the ownership or control of the United States of America, the Commonwealth of Virginia, or an agency or instrumentality thereof. Any conservation easement acquired under the Program shall be voluntarily offered by the owner. Each such easement shall be subject to the approval of the board of supervisors to determine that the acceptance of such easement shall further the purposes of this Chapter in accordance with Sec. 5.5-6. (Ord. 06-21-06)

Sec. 5.5-4. Definitions and construction.

A. The following definitions shall apply in the interpretation and implementation of the Program:

(1) Conservation easement. The term "conservation easement" means a nonpossessory interest of the County in real property, whether easement appurtenant or in gross, acquired through gift, purchase, devise, or bequest imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural or open-space values of real property, assuring its availability for agricultural, forestal, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of real property.

(2) Program administrator. The term "Program administrator" means the director of the department of planning and development.

(3) Parcel. The term "parcel" means a lot or tract of land, lawfully recorded in the clerk's office of the circuit court of the County, or any lawfully described portion of such lot or tract.

B. Construction. Because a conservation easement may contain one or more parcels, for purposes of the Program the term "parcel" shall include all parcels covered by, or proposed to be covered by, a particular conservation easement. (Ord. 06-21-06)

Sec. 5.5-5. Designation of Program administrator; powers and duties.

A. Designation. The director of the department of planning and development is hereby designated as the Program administrator.

B. Powers and duties. The Program administrator, or his designee, shall administer the Program and shall have the powers and duties to:

1. Establish reasonable and standard procedures and forms for the proper administration and implementation of the Program.

2. Promote the Program by providing educational materials to the public, conducting informational meetings and otherwise.

3. Investigate and pursue state, federal and other programs available to maximize private participation.

4. Evaluate all applications to determine their eligibility and make recommendations thereon to the board of supervisors.

5. Provide educational materials regarding other land protection programs to the public.

6. For each conservation easement, assure that the terms and conditions of the deed of easement are monitored and complied with by coordinating a monitoring program with each easement holder, and if the other easement holders are either unable or unwilling to do so, monitor and assure compliance with the terms and conditions of the deed of easement. (Ord. 06-21-06)

Sec. 5.5-6. Eligibility criteria.

In determining whether to accept a proposed conservation easement, the board of supervisors shall consider the following criteria:

(i) the use of the parcel subject to the conservation easement shall be consistent with the comprehensive plan as in effect at the time of the proposed dedication; (ii) the proposed terms of the conservation deed of easement shall be consistent with the minimum terms and conditions set forth in Sec. 5.5-7; and (iii) the acceptance of the proposed conservation is consistent with the purposes of this Chapter. (Ord. 06-21-06)

Sec. 5.5-7. Easement terms and conditions.

Each conservation easement shall conform with the requirements of the Open-Space Land Act of 1966 (Virginia Code § 10.1-1700 et seq.) and of this Chapter. The deed of easement shall

be in a form approved by the county attorney, and shall contain, at a minimum, the following provisions:

A. Restriction on division. No parcel shall be divided so as to create any parcel containing less than one hundred (100) acres.

B. No buy-back option. The owner shall not have the option to reacquire any property rights relinquished under the conservation easement.

C. Other restrictions. The parcel also shall be subject to standard restrictions contained in conservation easements pertaining to uses and activities allowed on the parcel. These standard restrictions shall be delineated in the deed of easement and shall include, but not necessarily be limited to, restrictions pertaining to: (i) the accumulation of trash and junk; (ii) the display of billboards, signs and advertisements; (iii) the management of forest resources; (iv) grading, blasting or earth removal; (v) the number and size of residential outbuildings and farm buildings or structures; (vi) the conduct of industrial or commercial activities on the parcel; and (vii) monitoring of the easement. (Ord. 06-21-06)

Sec. 5.5-8. Application and evaluation procedure.

Each application for a conservation easement shall be processed as follows:

A. Application materials to be provided to owner. The application materials provided by the Program administrator to an owner shall include, at a minimum, a standard application form, a sample deed of easement, and information about the Program.

B. Application form. Each application shall be submitted on a standard form prepared by the Program administrator. The application form shall require, at a minimum, that the owner: (i) provide the name of all owners of the parcel, the address of each owner, the acreage of the parcel, the County tax map and parcel number, the zoning designation of the parcel, and permission for the Program administrator to enter the property after reasonable notice to the owner to evaluate the parcel. The application form shall also include a space for an owner to indicate whether he volunteers to have the parcel be subject to greater restrictions than those contained in the standard sample deed of easement, and to delineate those voluntary, additional restrictions.

C. Additional application information required by Program administrator. The Program administrator may require an owner to provide additional information deemed necessary to determine whether the proposed easement can be recommended for acceptance.

D. Submittal of application. Applications shall be submitted to the office of the Program administrator. An application may be submitted at any time.

E. Evaluation by Program administrator. The Program administrator shall evaluate each application received and determine within fifteen (15) days whether the application is complete. If the application is incomplete, the Program administrator shall inform the owner in writing of the information that must be submitted in order for the application to be deemed complete. When an application is deemed complete, the Program administrator shall determine whether, in his judgment, the proposed easement satisfies the eligibility criteria set forth in Sec. 5.5-6.

F. Evaluation by board of supervisors. The board of supervisors shall review the proposed easement and determine whether or not the same should be accepted. The determination as

to whether or not a particular easement should be accepted shall be in the sole discretion of the board of supervisors, and nothing in this Chapter shall obligate the board to accept a particular conservation easement.

G. Reapplication. An owner whose proposed conservation easement is not accepted may reapply at a later time.

H. Easement established. A conservation easement shall be deemed to be accepted when all the owners of the subject parcel shall have signed the deed of easement; such deed of easement shall have been approved in writing as to form by the county attorney; and the same shall have been accepted by an authorized agent of the board of supervisors on its behalf. The deed shall be recorded in the office of the clerk of the circuit court of the County at the expense of the applicant. A single conservation easement may be established for more than one parcel under the same ownership.

I. Costs. The applicant shall be solely responsible for the cost of preparing and recording each such easement, including, but not necessarily limited to, environmental site assessments, surveys, recording costs and other charges associated with closing; and shall pay to the County a fee sufficient to defray the actual and reasonable expenses of the County's review of the application and the proposed deed of easement. The amount of such fee shall be established from time to time by resolution of the board of supervisors. The County shall not pay fees incurred for independent appraisals, legal, financial, or other advice, or fees in connection with the release and subordination of liens to the easement conveyed to the County. (Ord. 06-21-06)

Sec. 5.5-9. Program non-exclusivity.

This Chapter shall not be construed in any way as a limitation upon the County's authority to acquire land for public purposes, nor shall this Chapter be construed to prohibit the holding of easements for conservation of resources by entities other than, or in conjunction with, the County. (Ord. 06-21-06)

ENDNOTES:

¹ Ordinance adopted 6-21-06 enacting Chapter 5.5, Conservation Easements Program, is effective on and after July 1, 2006.



















MOTION: I move that the Board of Supervisors approve the attached resolution granting authority to John Gooch, Chairman of the Board of Supervisors; Renee Hoover, Finance Director; and Patricia Groot, Grants Administrator to sign documents related to any grants or federal assistance provided by or through the U.S. Environmental Protection Agency (EPA) as detailed by the resolution..

AGENDA

BOARD OF SUPERVISORS

November 16, 2011

SUBJECT: Signatory Resolution for EPA grants and federal assistance.

TIMING: Routine.

POLICY IMPLICATIONS: EPA grant awards require an affirmative statement from the Board of Supervisors designating authorized representatives for purposes of applying for, securing and administering grants and other federal assistance.

FISCAL IMPLICATIONS: Closing the EPA grant for the Palmyra Sewer Extension Project requires adoption of the attached resolution.

DISCUSSION: In order to complete the final paperwork to close the Palmyra Sewer Extension Project, the Board needs to affirmatively state that the staff noted in the resolution have the authority to execute the documents required to accept, administer and close the grant. Under the EPA rules, the authority is bestowed to individuals and not positions, therefore those authorized need to be identified by name. As a formality, the Finance Director and the Grants Administrator are also listed by name.

Staff: Pat Groot, Grants Administrator

Attachment: EPA Signatory Resolution

County Use Only

John Gooch, Chairman
Fluvanna County Board of Supervisors



BOARD OF SUPERVISORS

County of Fluvanna
Palmyra, Virginia

RESOLUTION

At a regular monthly meeting of the Fluvanna County Board of Supervisors held on Wednesday, January 19, 2011 in Palmyra, Virginia, the following action was taken:

Present

John Y. Gooch, Chairman
Shaun V. Kenney, Vice-Chairman
Donald W. Weaver
Mozell H. Booker
Joe Chesser
Chris Fairchild

Vote

On a motion by Mr./Ms -----, seconded by Mr./Ms. -----, and carried by a vote of ____, the following resolution was adopted:

A RESOLUTION OF THE
FLUVANNA COUNTY BOARD OF SUPERVISORS

WHEREAS, the Environmental Protection agency requires grant recipients to designate representatives authorized to transact business associated with grants awarded, and

WHEREAS, such designation is required as part of the application to access special appropriation funds earmarked for Fluvanna County under the State and Territorial Assistance Grant Program,

NOW THEREFORE BE IT RESOLVED, that the Fluvanna County Board of Supervisors does hereby name and appoint John Gooch, Chairman Fluvanna County Board of Supervisors as their authorized representative to transact and sign any and all documents related to securing all current and future U.S. Environmental Protection Agency's Special Appropriation Act Project grants awarded Fluvanna County, and

BE IT FURTHER RESOLVED, that the Fluvanna County Board of Supervisors does hereby name and appoint Renee Hoover, Director of Finance as their authorized representative to transact and sign payment request, and

BE IT FURTHER RESOLVED, that the Fluvanna County Board of Supervisors does hereby name and appoint Patricia A. Groot, Grants Administrator as their authorized representative to transact and sign any and all grant administration documents.

ADOPTED this 16th day of November,

John Y. Gooch, Chairman of the Board of Supervisors

A COPY ATTEST:

Mary L. Weaver, Clerk to the Board



COUNTY OF FLUVANNA

"Responsive & Responsible Government"

P.O. Box 540, Palmyra, VA 22963 · (434) 591-1910 · FAX (434) 591-1911 · www.co.fluvanna.va.us

MEMORANDUM

TO: Board of Supervisors
FROM: Renee Hoover ~~Finance~~ Director
SUBJECT: Contingency Balance
DATE: November 7, 2011

The balances for the BOS and grant contingency lines for FY12 are as follows:

<u>Board of Supervisors Contingency:</u>	\$100,000.00
Minus Donation to Town of Columbia 8.3.11	3,000.00
Minus Reimbursement of Livestock Claims 9.7.11	2,540.00
Minus Legal Services from Lawsuit 10.19.11	5,598.45
Minus Create Economic Development Director 10.19.11	54,000.00
Minus Erosion and Sediment Control Plan 11.2.11	<u>7,800.00</u>
Total Board of Supervisors Contingency	<u>\$ 27,061.55</u>