



Planning Commission

MEETING AGENDA

Berryville-Clarke County Government Center
101 Chalmers Court, Second Floor
Main Meeting Room
Regular Session

April 28, 2026

7:00 PM

Item

Page

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes
4. Public Hearings

Beach Carpenter Properties LLC, Jon K. Erickson, agent, is requesting a Special Use Permit in order to allow vehicle sales (§609.3(k) of the Town of Berryville Zoning Ordinance) on the property located at 29 Cattleman's Lane, identified as Tax Map Parcel number 14A3-((A))-17A, zoned L-1 Industrial. SUP 02-26

Belfort Furniture, Inc., is requesting a Special Use Permit in order to allow a retail sales (§609.3(h) of the Town of Berryville Zoning Ordinance) on the property located at 351 Station Road, identified as Tax Map Parcel number 14A5-((7))-1, 14A5-((7))-2, and 14A5((A))-56 zoned L-1 Industrial. SUP 01-26

A text amendment to ARTICLE V- ADMINISTRATION AND ENFORCEMENT SECTION 509- AMENDMENTS WITH PROFFERED CONDITIONS of the Town of Berryville Zoning Ordinance to correct the reference to the Code of Virginia to Title 15.2-2298.

5. Public Forum
6. Discussion of Public Hearings
7. New Business

**Set Public Hearing: Subdivision Ordinance and Zoning Ordinance Amendments
Text amendments to the Subdivision Ordinance and the Zoning Ordinance of the
Town of Berryville to update these Ordinances to comply with changes made to the**

Code of Virginia Title 15.2 in the 2025 Legislative Session.

- 8. Planning Update**
- 9. Other**
- 10. Adjourn**

All documents may not be fully ADA Compliant due to redlines and things of that nature. The final documents, once approved will be ADA Compliant in their final form. If you have any questions or need any help with a specific document, please reach out to the Town Clerk at townclerk@berryvilleva.gov.

Planning Commission Agenda Item Report Summary

April 28, 2026

Item Title

Public Hearing - Special Use Permit

Prepared By

Terry Russell

Beach Carpenter Properties LLC, Jon K. Erickson, agent, is requesting a Special Use Permit in order to allow vehicle sales (Section 609.3(k) of the Town of Berryville Zoning Ordinance) on the property located at 29 Cattleman's Lane, identified as Tax Map Parcel number 14A3-((A))-17A, zoned L-1 Industrial. SUP 02-26

Background/History/General Information

Beach Carpenter Properties LLC is requesting a Special Use Permit in order to allow vehicle sales in the L-1 Industrial Zoning District at the location referenced above. Section 609.3(k) of the Berryville Zoning Ordinance allows for *vehicle and machinery sales and rentals* with an approved Special Use Permit.

The Special Use Permit process allows for the ability to set conditions on specific uses and parcels which may include hours of operation, site requirements, and items deemed appropriate as recommended by the Planning Commission and approved by the Town Council.

Findings/Current Activity

The parcel is located at the end of Cattleman's Lane, a private road owned by Norfolk-Southern Railroad.

Customers would come to the site to view and test drive the vehicles. No vehicle repair would take place here. The applicant does not propose to make any physical improvements to the site but rather park the vehicles on the lot as it exists.

Schedule/Deadlines

Hold the public hearing on April 28, 2026 meeting.

Other Considerations

N/A

Recommendation

Recommend that the Town Council approve the Special Use Permit including any conditions the Planning Commission may find appropriate for the use.

Sample Motion

I move that the Planning Commission of the Town of Berryville recommend that the Town Council approve a Special Use Permit in order to allow vehicle sales at 29 Cattleman's Lane.

Or

I move that the Planning Commission of the Town of Berryville recommend that the Town Council approve a Special Use Permit in order to allow vehicle sales at 29 Cattleman's Lane with the following conditions the Commission finds appropriate for the use: (conditions discussed at the public hearing)

Attachments:

- Vicinity map
- Site plan
- Section 607 L-1 Industrial District Berryville Zoning Ordinance
- Section 503 Special Use Permit Berryville Zoning Ordinance

February 18, 2026

Beach Carpenter Properties
49 Catoctin Circle SE
Leesburg, VA 20175

Terry Russell
Town of Berryville
101 Chalmers Court, Ste A
Berryville, Virginia 22611

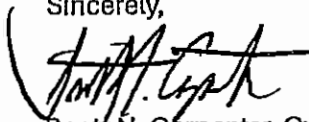
Dear Town of Berryville,

I am the owner of the property located at 29 Cattleman's Lane identified as Tax Map Number 14A3-A-17A, within the L-1 Industrial Zoning District in the Town of Berryville.

This letter serves as a formal request for approval of a Special Use Permit to allow vehicle and machinery sales and rentals on the subject property, as permitted under Section 609.3 of the Berryville Zoning Ordinance.

The proposed use is consistent with the intent of the L-1 Industrial District and is compatible with surrounding properties and existing land uses. Operations will comply with all applicable zoning ordinance requirements and operational standards established by the Town.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott N. Carpenter". The signature is written in a cursive style with a large initial "S".

Scott N. Carpenter, Owner, Beach Carpenter Properties

LAND DEVELOPMENT APPLICATION TOWN OF BERRYVILLE

(Please print or type)

Current Property Owner Beach Carpenter Properties LLC

Owner's Address 49 Catoclin CIR SE, Leesburg, VA 20175

Phone 703-475-7814

Agent (Contact Person) Jon K. Erickson

Agent's Address 205 E Hirst Rd, Suite 106, Purcellville VA 20132

Phone 540-974-5334

Check Appropriate Request:

- Subdivision - creating more than 2 lots
- Minor Subdivision - single lot divided into 2 lots
- Boundary Line Adjustment
- Site Plan
- Rezoning
- Text Amendment: _____ Zoning or _____ Subdivision Ordinance
- ARB Certificate of Appropriateness
- Town of Berryville Utilities
- Other: Special Use Permit

Complete As Applicable:

Nature of Request/Proposal: SUP For Automobile Sales

Tax Map & Parcel Number(s): 3 14A3-A-17A

Size of Project Site: 3.5378 AC

Proposed # of Lots: 1 Existing Zoning L-1

Owner or Agent: The information provided is accurate to the best of my knowledge. I understand that the Town may deny, approve, or conditionally approve the request for which I am applying. I certify that all property corners have been clearly staked and flagged.

Signature: [Signature] Date: 2-18-26

Owner: I have read this completed application, understand its intent, and freely consent to its filing. Furthermore, I grant permission to the Town Planning Department and other government agents to enter the property and make such investigations and tests, as they deem necessary. I acknowledge that in accordance with Article X of the Subdivision Ordinance I am responsible for costs incurred for review of subdivision and/or development plans by the Town's engineer and that any other required tests or studies will be carried out at owner/agent expense

Signature: [Signature] Date: 2-18-26

OFFICE USE ONLY

Public Hearing Required? _____ Dates Advertised _____

Adjoining Property Owners Notified? _____

Action Taken: _____

SECTION 609 L-1 INDUSTRIAL DISTRICT

609.1 PURPOSE AND INTENT

The L-1 Industrial District is established to provide locations within the Town of Berryville for a broad range of general light-industrial uses, recreational and event venues, infill development, and employment-related businesses operating under well-governed performance standards. The specific uses permitted within the L-1 District must be in harmony with the cultural and environmental character of the Town of Berryville. No use should be permitted that might be harmful to the adjoining land uses and the residential ambience of the community at large. Adaptive reuse is encouraged in the L-1 District. Outdoor storage and heavy industrial uses are discouraged but may be permitted by special use and environmental performance review. The L-1 District recognizes and is to be applied to existing conforming industry in the Town of Berryville as of the date of adoption of this District. Existing industrial uses shall be considered as satisfying the purpose and intent of the L-1 District, but expansion of existing industrial uses shall conform to the provisions herein. (08/16)

609.2 PERMITTED USES (12/94)

- (a) Auction establishments (indoor only) (5/95)
- (b) Business and professional offices (7/99)
- (c) Business service, supply and delivery establishments
- (d) Contractor's establishments without outdoor storage
- (e) Establishments for the production, processing, assembly, manufacturing, compounding, cleaning, servicing, testing and repair of materials, goods or products which conform to applicable Federal, State and local environmental performance standards or other standards referenced by the Town as related to (a) air pollution; (b) fire and explosion hazards; (c) radiation hazards; (d) electromagnetic radiation and interference hazards; (e) liquid and solid wastes hazards; (f) noise and odor standards; and (g) vibration standards.
- (f) Existing or expansion of existing industrial uses in operation as of the date of adoption of this Ordinance which conform to the previous industrial zoning district requirements.
- (g) Farm supply establishments
- (h) Financial institutions
- (i) Indoor mini-storage facilities
- (j) Light manufacturing, fabrication, testing or repair establishments without outdoor storage
- (k) Light warehousing establishments, without outdoor storage
- (l) Light wholesale trade establishments, without outdoor storage
- (m) Printing and publishing establishments
- (n) Private training and vocational schools
- (o) Public utilities (sub-stations, pump stations, transmission/receiving facilities and lines for telecommunications and similar uses, storage tanks, etc.)
- (p) Sheet metal shops
- (q) Small animal veterinary hospitals, exclusive of boarding kennels
- (r) Vehicle and machinery service, and parts sales ("service" including but not limited to internal and external repair, body work, paint, car washes, etc.)

- (s) Welding shops
- (t) Craft beverage manufacturing (03/18)

609.3 SPECIAL PERMIT USES

- (a) All above permitted uses requiring outdoor storage (10/94)
- (b) Day care centers (12/94)
- (c) Eating establishments including microbreweries, wineries, and distilleries (05/95, 08/16)
- (d) Heliports
- (e) Laundry and dry cleaning establishments
- (f) Lumber yards and building materials establishments
- (g) Motor freight terminals
- (h) Retail sales incidental to a manufacturing, production or related use, provided that:
 - a) the gross floor area used for retail purposes (excluding storage) shall not occupy more than five-thousand (5,000) square feet of gross floor area on any one lot, and shall not exceed twenty-five (25) percent of the total floor area for the site; and
 - b) the areas dedicated for retail uses must be indicated on an approved site plan.The provisions of this Section shall not apply to those permitted or special permit uses for which retail sales are a primary activity. (12/07)
- (i) Scientific research, development, and training establishments
- (j) Service stations
- (k) Vehicle and machinery sales and rentals
- (l) Recreation, commercial indoor (06/10)
- (m) Retreat and conference centers (08/16)
- (n) Residential lofts and apartments (08/16)
- (o) Wholesale/retail food hubs (08/16)
- (p) Commercial kitchens (08/16)
- (q) Hotels, motels, and accommodations (08/16)

609.4 PROHIBITED USES

The specific uses which follow shall not be permitted in the L-1 District:

- (a) Asphalt mixing plants
- (b) Blast furnaces
- (c) Boiler works
- (d) Bulk storage of flammable materials
- (e) Coal, wood or wood distillation
- (f) Concrete mixing and batching products
- (g) Extraction or mining of rocks and minerals
- (h) Garbage incineration
- (i) Junk yards
- (j) Landfills
- (k) Manufacture of ammonia, chlorine, fertilizer, lime, cement, fireworks, explosives, soaps, acids, pesticides, herbicides or insecticides
- (l) Metal foundries and smelting
- (m) Petroleum, asphalt or related product refining
- (n) Rendering plants
- (o) Slaughterhouses
- (p) Stockyards

Section 609 Industrial (L-1) District

- (g) Tanning and curing of skins
- (r) Any other similar use which in the opinion of the Town Council might be injurious or noxious by reason of odor, fumes, dust, smoke, vibration, noise or other cause

609.5 MAXIMUM LOT COVERAGE

(12/91) The maximum lot coverage—including buildings, streets, parking spaces, driveways, loading areas and all other impervious surfaces—shall not be greater than seventy-five percent (75%) of the area of an L-1 lot.

609.6 MINIMUM DISTRICT SIZE

The minimum district size shall be four (4) acres.

609.7 LOT SIZE REQUIREMENTS AND BULK REGULATIONS

- (a) Minimum lot area: 30,000 square feet
- (b) Minimum lot width: 125 feet
- (c) The maximum building height shall be forty (40) feet, except in particular instances the Town Council may, upon recommendation from the Planning Commission or its agent, modify the maximum building height.
- (d) Minimum yard requirements
 - (1) Front yard: 50 feet
 - (2) Side yard: 25 feet (except where side yard abuts a public right-of-way the side yard shall be 50 feet) (5/94)
 - (3) Rear yard: 50 feet (5/94)

609.8 OPEN SPACE

- (a) An open space plan and landscape design program shall be submitted with applications for any land use governed by this District.
- (b) Twenty five percent (25%) of the site shall be landscaped open space. Landscaping may be limited to setback areas and unused portions.

609.9 PARKING, PARKING ACCESS AND DRIVEWAYS

- (a) No parking space shall be located closer than fifteen (15) feet from any common property line.
- (b) Where lot is contiguous to property located in any district other than the L-1, I, C-1 or C-2 District, no parking space shall be closer than 40 feet from such property line. (5/94)
- (c) All parking requirements shall be met by off-street, on-site spaces and shall include designated spaces for the handicapped and elderly.
- (d) Refer to Section 305 for additional off-street parking requirements.

609.10 SETBACK, BUFFERING AND LANDSCAPING

- (a) Where an L-1 lot is contiguous to property located in a district other than an L-1, I, C-1 or C-2 District, all buildings shall have a minimum 60-foot setback from lot lines. In particular instances the Town Council may waive the 60-foot setback requirement, upon recommendation from the Planning Commission. (5/94)
- (b) Where an L-1 lot is contiguous to property located in a district other than an L-1, I, C-1 or C-2 District, a landscaped buffer strip of 30 feet in width shall be provided,

Section 609 Industrial (L-1) District

with landscape materials and placement subject to final plan approval. Where contiguous to a C-1 or C-2 District property, the landscaped buffer strip shall be 15 feet. Approved fencing or additional buffering may be used in lieu of landscaping. (5/94)

609.11 STORAGE OF GOODS, MATERIALS, FUEL AND REFUSE

- (a) The outdoor area devoted to storage, loading and display of goods shall be limited to that area so designated on an approved site plan.
- (b) All equipment and materials shall be contained entirely within a building or screened from public rights-of-way and contiguous properties that are in land uses other than industrial in nature.
- (c) Any establishment involved with the storage of fuel for sale, or for other purposes, shall be permitted only if the fuel is stored underground, except where otherwise permitted under provisions granted and stipulations required by the Town Council.
- (d) All refuse shall be contained in completely enclosed facilities and shall be screened.

609.12 STREET ENTRANCES

- (a) On a corner lot, no street entrance shall be located closer than 60-feet to the curb line extended from the intersecting street. This distance may be increased with respect to the types and turning radii of vehicles using the site.
- (b) No street entrance shall be located closer than 30 feet to a side or rear lot line, unless a common street entrance serves adjacent uses, and in no instance shall the distance between separate street entrances serving adjacent uses be less than 60 feet. The maximum width of such street entrances shall not exceed thirty feet (30').
- (c) A freestanding use shall have no more than two street entrances on any single right-of-way, and such street entrances shall have a minimum distance of 90 feet between them.

609.13 SITE PLAN REQUIREMENTS AND PERFORMANCE STANDARDS

- (a) All uses shall be subject to final site plan approval.
- (b) Any L-1 District land use application which is not in strict compliance with the pre-existing approved master site plan and preliminary plat for the district shall require an amendment to that master site plan and preliminary plat prior to site plan approval of the specific use.
- (c) Master site plans and preliminary plats for L-1 Districts shall include provisions for:
 - (1) adequate public facilities;
 - (2) development phasing;
 - (3) stormwater management facilities to address the ultimate development coverage within the district;
 - (4) lighting and signing; and
 - (5) other special features and land use considerations deemed necessary to serve the industrial district.
- (d) Applications for all uses subject to special use permits shall be accompanied by a report indicating the compliance with and use compatibility issues related to the Town's applicable performance standards.

Section 609 Industrial (L-1) District

609.14 ADDITIONAL REQUIREMENTS

- (a) Public Streets within the L-1 District shall be constructed to industrial road standards as determined by the Town Council or its agent. Sidewalks may be required on one or both sides of the street.
- (b) Common property ownership agreements and covenants for L-1 District developments shall be reviewed and approved by the Town Council or its agent.
- (c) Refer to Section 306 for off-street loading requirements.
- (d) Refer to Sections 301-304 for general regulations and other provisions which may supplement those cited herein.
- (e) Refer to specific Overlay Zoning districts, where applicable.

Section 502 – Certificate of Occupancy

- 502.2 Prior to the issuance of a Certificate of Occupancy for a new structure, the Zoning Administrator will verify that all property corners have been set with permanent markers by a land surveyor licensed under the laws of the Commonwealth of Virginia. (11/00)
- 502.3 In addition to any other requirements for the issuance of a Certificate of Occupancy, a Certificate of Occupancy for a structure will not be issued unless (1) the structure is served by public water and sewer, (2) required curb and gutter and sidewalks are in place on the lot on which the structure is located and in place between said lot and an existing publicly maintained street, (3) a functional fire hydrant is located within three hundred (300) feet of the lot on which the structure is located, and (4) the lot on which the structure is located fronts on an existing publicly maintained street or street meeting Town requirements for a publicly maintained street. (8/01)
- 502.4 In addition to any other requirements for the issuance of a Certificate of Occupancy, after issuance of certificates of occupancy for structures on eighty percent (80%) of the lots in a section of a subdivision, a Certificate of Occupancy for a structure in the section will not be issued unless all public improvements in the section have been completed to Town requirements and all streets have been accepted for maintenance by the Virginia Department of Transportation (VDOT), or a complete application for acceptance thereof has been filed with VDOT. (8/01)
- 502.5 Upon written application, delayed installation of public improvements described in 502.3 and 502.4 may be considered by the Zoning Administrator. Approval of the application shall only be granted by the Zoning Administrator after consultation with the respective departments or agencies charged with the inspection, acceptance, and maintenance of the improvements, and only upon a further finding that the delayed installation will not be detrimental to the safety and welfare of the residents in the subdivision and the public. A written request for such delayed installation shall set forth the specific improvements sought to be delayed, the justification for the delay, and a committed date for completion of the improvements. A fifty-dollar (\$50.00) fee shall be paid with the request. If the Zoning Administrator approves the application for delayed installation of public improvements, the approval shall be subject to the applicant executing an agreement to hold harmless the town for any loss or liability occasioned by the lack of the improvements delayed. (8/01)

SECTION 503 - SPECIAL USE PERMIT

503.1 PROVISIONS FOR SPECIAL USE PERMITS

- (a) In consideration of an application filed with the Zoning Administrator, the Council may, after a public hearing, authorize the establishment of those uses that are expressly listed as Special Permit uses in a particular zoning district.
- (b) In addition to all applicable conditions and requirements of this Ordinance, the Council may impose any conditions deemed appropriate in the public interest to secure compliance with the provisions of this Ordinance.
- (c) Once a Special Use Permit is granted, the use shall not be enlarged, extended, increased in intensity or relocated unless authorized by the Council.

Section 503 – Special Use Permit

- (d) Whenever a Special Use Permit is granted by the Council, the authorized activities shall be established within two (2) years of the date of approval with an extension of one (1) additional year with Council approval, or such Special Use Permit shall expire without notice. (4/08)
- (e) Should the owner or operator of the use covered by the Special Permit fail to observe all requirements of law with respect to the maintenance and conduct of the use and all permit conditions, the Council may, after due notice to permit holder and a public hearing, revoke the Special Use Permit.

503.2 APPLICATIONS

An application for a Special Use Permit may be submitted by the property owner of record, tenant, or contractor owner.

503.3 APPLICATION REQUIREMENTS

Applications for Special Use Permits shall be accompanied by seven (7) copies of the following items:

- (a) Letter of request, signed by property owner and applicant, outlining complete details of special use desired.
- (b) Site development plan.
- (c) Floor plan, front, side, and rear elevations of proposed new buildings.
- (d) Certified house location plat.
- (e) Information deemed necessary by the Zoning Administrator.
- (f) Applicable filing fee.

503.4 APPLICATION PROCEDURE

- (a) Application submitted to Zoning Administrator, which shall be referred to the Planning Commission for recommendation, and a public hearing shall be scheduled by the Town Council.
- (b) Review by the Planning Commission (public hearing if desired) and recommendation to Town Council.
- (c) Public hearing by Town Council.
- (d) Town Council action (In acting upon the application, the Town Council shall consider the following, among other relevant factors):
 - 1. The health, safety, and welfare of the general public.
 - 2. Physical and visual impact on adjoining and abutting properties.
 - 3. Adequate utilities, drainage, parking, and other necessary facilities to serve the proposed use.
 - 4. Compliance with the adopted master plan.
 - 5. Environmental compatibility.
 - 6. Community sentiment.
- (e) Applicant to be notified by Zoning Administrator of Town Council action.

Legal Notices

Legal Notices

BERRYVILLE PLANNING COMMISSION PUBLIC HEARING NOTICE

The Berryville Planning Commission will hold the following public hearings at 7:00 p.m., or as soon after as these matters may be heard, on **Tuesday, April 28, 2026**, in the Main Meeting Room, Second Floor, of the Berryville/Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia to consider the following:

Beach Carpenter Properties LLC, Jon K. Erickson, agent, is requesting a Special Use Permit in order to allow vehicle sales (Section 609.3(k) of the Town of Berryville Zoning Ordinance) on the property located at 29 Cattleman's Lane, identified as Tax Map Parcel number 14A3-((A))-17A, zoned L-1 Industrial. SUP 02-26

Belfort Furniture, Inc., is requesting a Special Use Permit in order to allow a retail sales (Section 609.3(h) of the Town of Berryville Zoning Ordinance) on the property located at 351 Station Road, identified as Tax Map Parcel number 14A5-((7))-1, 14A5-((7))-2, and 14A5-((A))-56 zoned L-1 Industrial. SUP 01-26

A text amendment to ARTICLE V – ADMINISTRATION AND ENFORCEMENT SECTION 509 -AMENDMENTS WITH PROFFERED CONDITIONS of the Berryville Zoning Ordinance to correct the reference to the Code of Virginia to Title 15.2-2298.

Copies of the applications, amendments, and maps may be examined at the Town Business Office, Berryville/Clarke County Government Center (101 Chalmers Court), First Floor, Berryville, Virginia during regular business hours. Additional information may be obtained by calling Community Development Director Terry Russell at 540 955-4081. Any person desiring to be heard on these matters should appear at the appointed time and place.

The Town of Berryville does not discriminate against disabled persons in admission or access to its programs and activities. Accommodations will be made for disabled persons upon prior request.

By order of the Berryville Planning Commission
Terry Russell, Community Development Director

Planning Commission Agenda Item Report Summary

April 28, 2026

Item Title

Public Hearing - Special Use Permit

Prepared By

Terry Russell

Belfort Furniture, Inc., is requesting a Special Use Permit in order to allow a retail sales (Section 609.3(h) of the Town of Berryville Zoning Ordinance) on the property located at 351 Station Road, identified as Tax Map Parcel number 14A5-((7))-1, 14A5-((7))-2, and 14A5-((A))-56 zoned L-1 Industrial. SUP 01-26

Background/History/General Information

Belfort Furniture is requesting a Special Use Permit in order to allow retail sales in the L-1 Industrial Zoning District at the location referenced above. Section 609.2(h) of the Berryville Zoning Ordinance allows *“Retail sales incidental to a manufacturing, production or related use, provided that: a) the gross floor area used for retail purposes (excluding storage) shall not occupy more than five-thousand (5,000) square feet of gross floor area on any one lot, and shall not exceed twenty-five (25) percent of the total floor area for the site; and b) the areas dedicated for retail uses must be indicated on an approved site plan. The provisions of this Section shall not apply to those permitted or special permit uses for which retail sales are a primary activity.”*

The Special Use Permit process allows for the ability to set conditions on specific uses and parcels which may include hours of operation, site requirements, and items deemed appropriate as recommended by the administrative body and approved by the governing body.

Findings/Current Activity

The parcel is approximately 22 acres and is located at 351 Station Road, a private road owned by Norfolk-Southern Railroad.

There is one building on the parcel. Public water and sewer are on-site.

Belfort furniture is a furniture retailer. It intends to use most of facility for the warehousing of furniture to be sold in its main store. The Special Use Permit request is for a 5,000 square foot retail store in conjunction with the warehouse.

Schedule/Deadlines

The application was filed on March 19, 2026. The Planning Commission this public hearing at its meeting on March 24, 2026.

Potential Special Use Permit Conditions

- Hours of operation
- Parking and Landscaping as shown on the plan presented
- Maintenance of the site and landscaping in good order

Recommendation

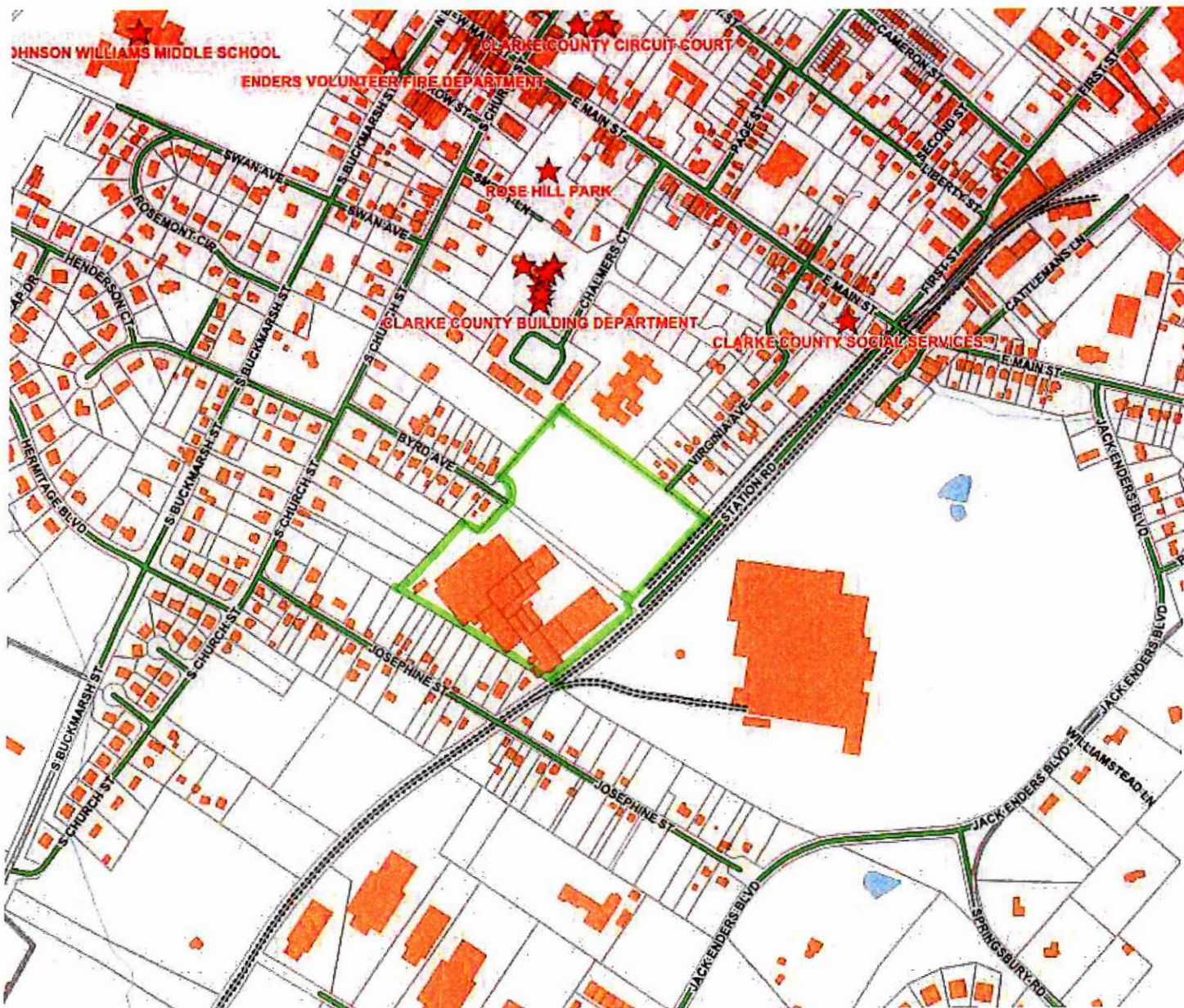
Recommend that the Town Council approve the Special Use Permit including any conditions that the Planning Commission may find appropriate for the use.

Sample Motion

I move that the Planning Commission of the Town of Berryville recommend that Town Council approve a Special Use Permit in order to allow retail sales at 351 Station Road.

Attachments:

- Vicinity map
- Application
- Site Plan and Illustrations
- Section 609 L-1 Industrial District Berryville Zoning Ordinance
- Section 503 Special Use Permit Berryville Zoning Ordinance



SPECIAL USE PERMIT APPLICATION

Please Note: This is an application only. The permit will be issued only if approved by the Berryville Town Council after review and recommendation from the Planning Commission.

To be completed by Applicant:

Date: MARCH 17, 2026

Applicant's Name: BELFORT FURNITURE INC.

Applicant's Address: 22250 SHAW RD, STERLING VA 20166

Use Applied For: RETAIL SALES INCIDENTAL TO WAREHOUSING USE (609.3(h))

At the following address: 351 STATION RD, SUITE #1, BERRYVILLE, VA 22611

Special Conditions: 5,000 SQ.FT. RETAIL USE PLANNED TO BE ADJACENT TO CUSTOMER PICK UP AREA OF DISTRIBUTION CENTER. THIS IS LESS THAN 5% (UNDER THE 25% LIMIT) OF TOTAL WAREHOUSING USE.

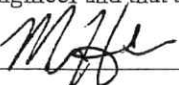
Property Owner's Name: STERLING DAVIS PROPERTIES, LLC

Property Owner's Address: 22250 SHAW RD, STERLING, VA 20166

Owner or Agent: The information provided is accurate to the best of my knowledge. I understand that the Town may deny, approve, or conditionally approve the request for which I am applying. I certify that all property corners have been clearly staked and flagged.

Signature:  Date: 3/17/2026

Owner: I have read this completed application, understand its intent, and freely consent to its filing. Furthermore, I grant permission to the Town Planning Department and other government agents to enter the property and make such investigations and tests, as they deem necessary. I acknowledge that in accordance with Article X of the Subdivision Ordinance I am responsible for costs incurred for review of subdivision and/or development plans by the Town's engineer and that any other required tests or studies will be carried out at owner/agent expense

Signature:  Date: 3/19/2026

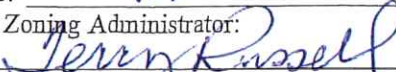
TO BE COMPLETED BY ZONING ADMINISTRATOR

Special Use: RETAIL SALES 609.3(h) Zone: L-1

Street Address: 351 STATION RD. Tax Map #: _____

Special Use Permit Fee: \$2500.00 Paid: 3-19-26

Site Plan Fee: NA Paid: 14A5(C1))2 + 1; 14A5(A))56

Signature of Zoning Administrator:  Date: 3-19-26

Belfort Furniture Outlet Retail Special Use Permit Application

Purpose:

To serve as an Outlet retail location to support the primary use of 351 Station Road as Belfort Furniture's warehouse and distribution center. The product will be incidental to Belfort's receiving, assembly, delivery and repair shop operations.

Location within the Complex:

The proposed Outlet location is in the part of the complex closest to the Station Road entrance that will allow for the required parking and ramp access.

The entrance for the Outlet is designed to also serve as the entry point for customer "pick-ups" of furniture purchased at Belfort's retail location or online. This keeps the public-facing areas of the building focused on a single, identifiable entrance, to reduce confusion and minimize customer interaction with the other commercial and warehousing uses.

Adaptive Reuse: "Adaptive reuse is encouraged in the L-1 District."

The structure proposed for the Outlet is the original building built for apple packing and storage in the early 1940s. This brick building is framed with wood beams rather than the metal columns used in the rest of the complex. Narrow spacing due to the wood beams and columns limits its utility for modern industrial uses. However, use as an Outlet, Pick-Up and storage for "out-of-box", oversized and "one-of-a-kind" products allows us to maintain the existing structure with minimal intervention. We propose adding an air-lock structure at the entrance, and adding/re-introducing windows for more daylight. The design also proposes to celebrate the industrial heritage of the site by relocating an existing sawdust storage element for use as a landmark to help define the entrance (pending feasibility study.)

Size: "... the gross floor area used for retail purposes (excluding storage) shall not occupy more than 5,000 square feet of gross floor area on any one lot, and shall not exceed 25 percent of the total floor area for the site..."

We propose 5,000 square feet of gross floor area for retail use. Belfort's initial lease will be no less than 135,000 square feet, putting the 25% total floor area as 33,750 sq. ft.

Proposed Hours of Operation:

Monday-Saturday: 10am-6pm

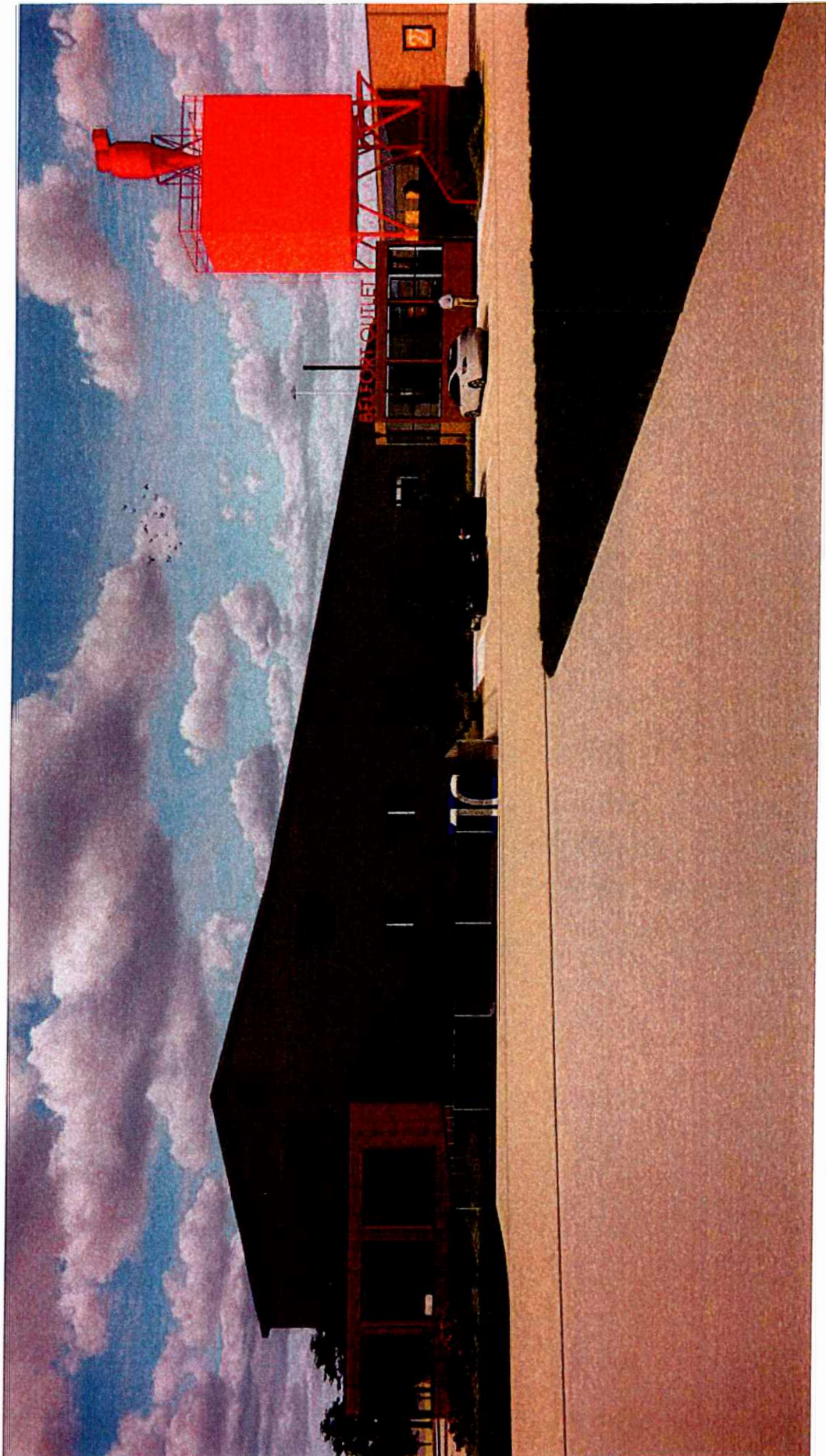
Sunday: 12-6pm

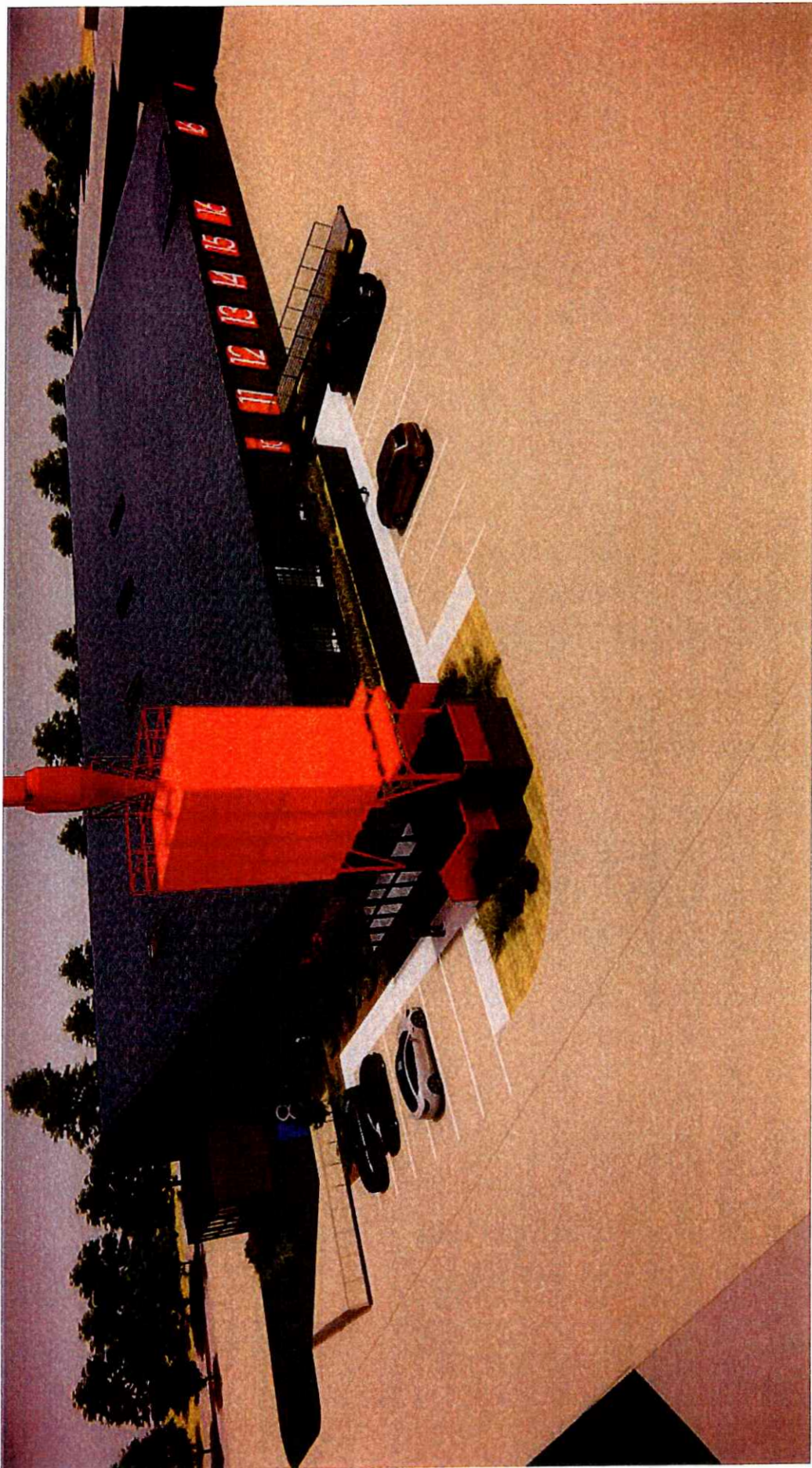
Note: these preliminary hours will be subject to business conditions, foot traffic patterns and staffing needs. We may not be open 7 days a week at this Outlet.

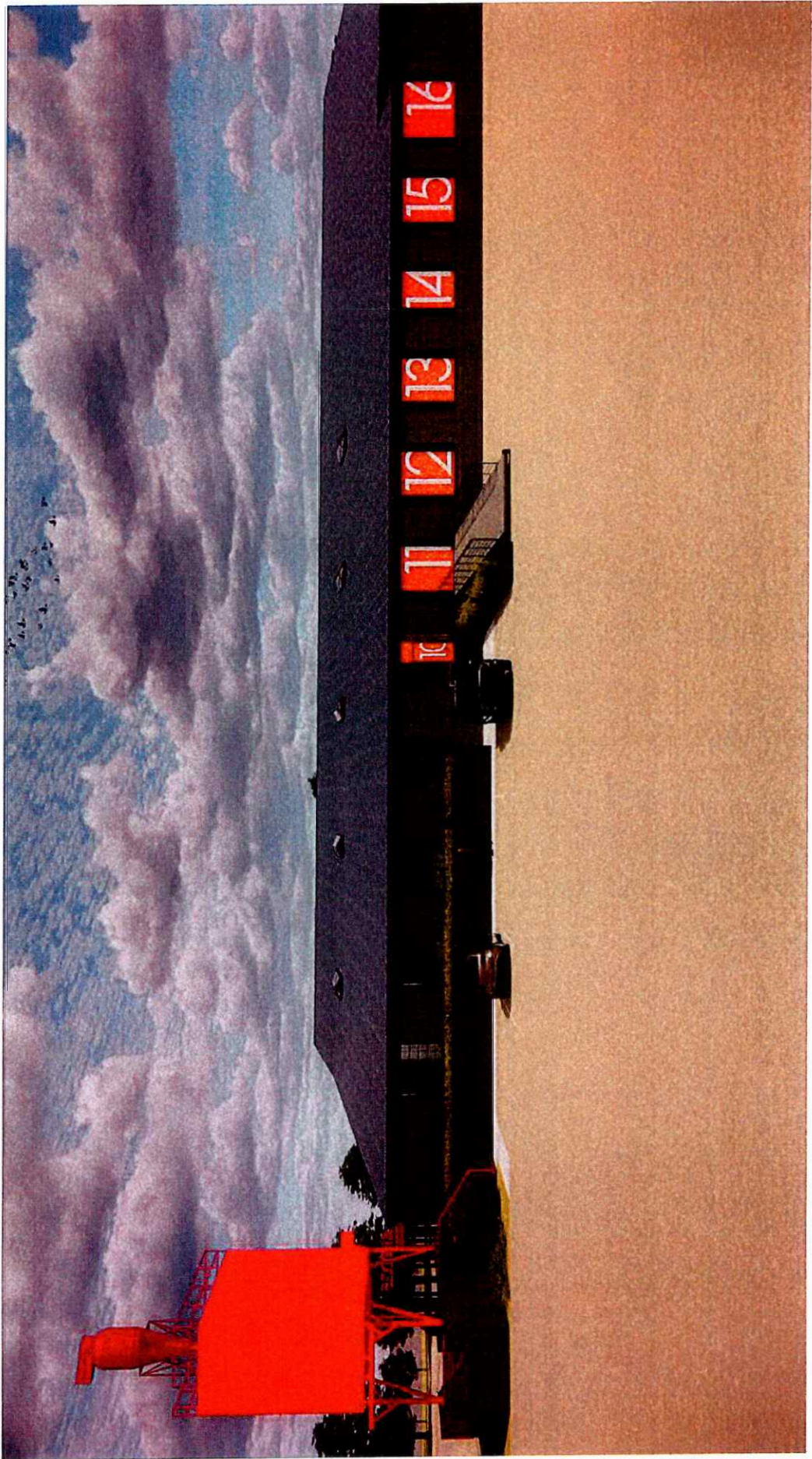
Parking: 305.20 Off-Street Parking Space Requirements- Business Uses

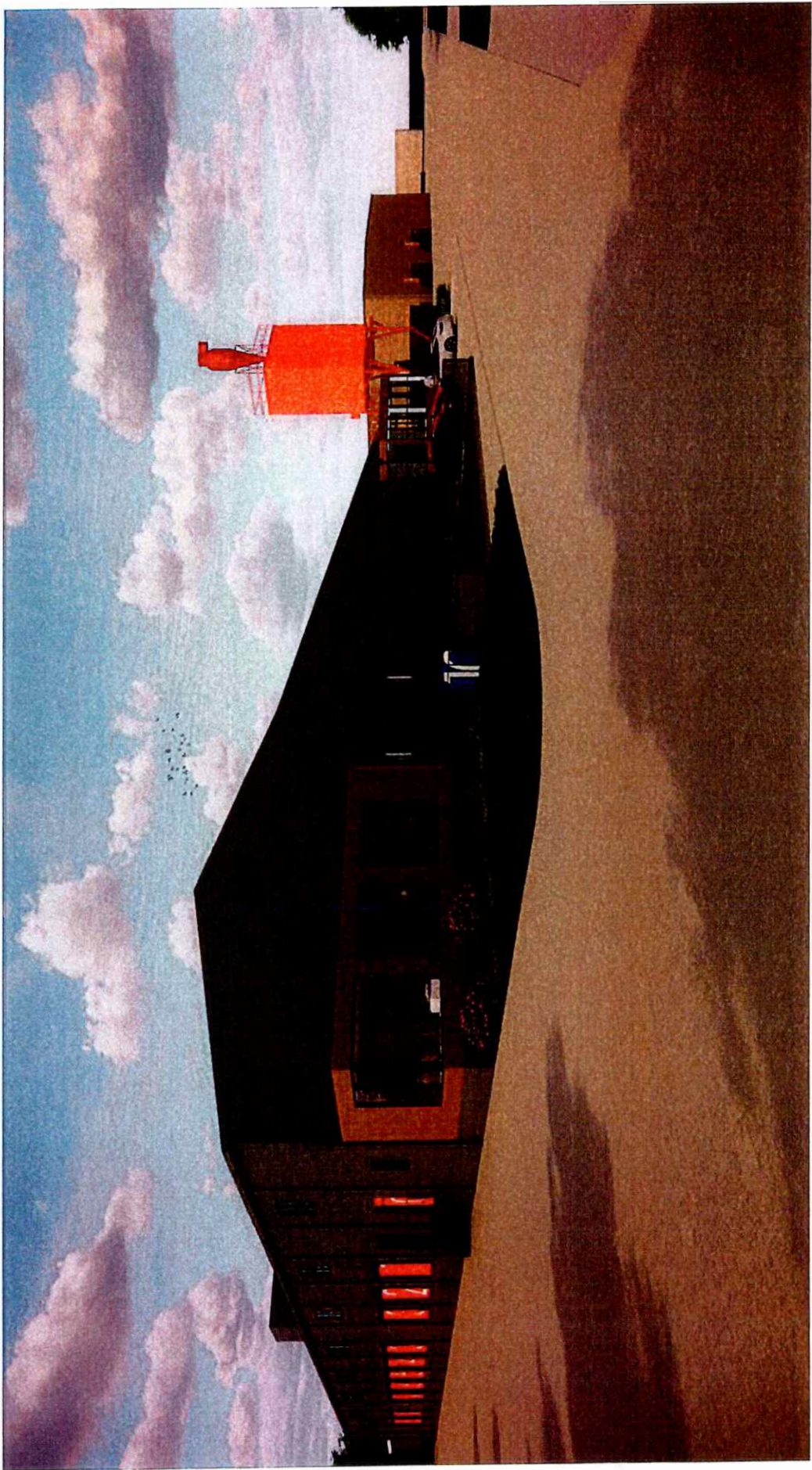
"Furniture, Hardware, Home Furnishings and Similar Establishments" require 1 off-street parking space "for each 400 square feet of floor area",

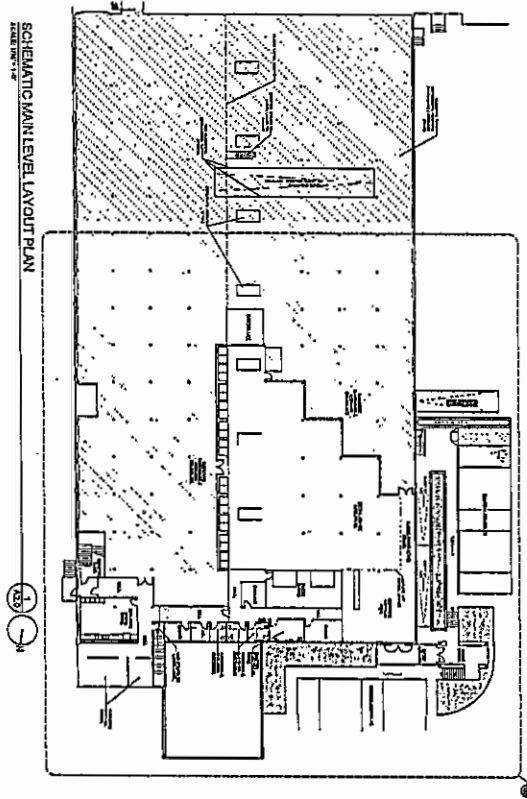
5000 sq. ft / 400 = 12.5 required spaces. The plan provides for at least 13 parking spaces, including an accessible space. Employees will park in the existing employee parking areas. The 13 new spaces use paved areas previously used for trailer loading and/or storage.











SCHEMATIC MAIN LEVEL LAYOUT PLAN
DATE: 10/11/11

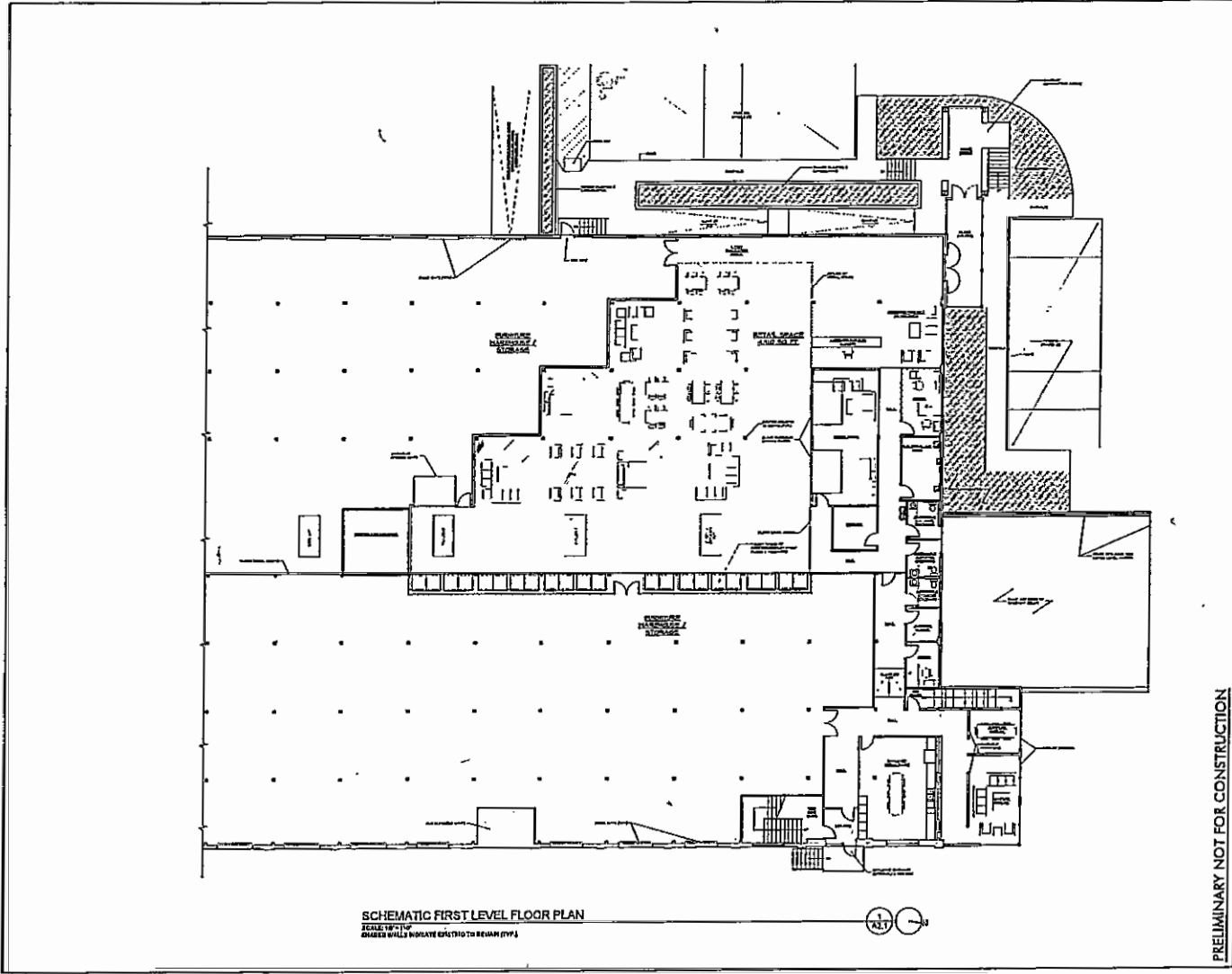
PRELIMINARY NOT FOR CONSTRUCTION

A2.0	NO.	
	DATE	
	BY	
	CHECKED	
	DATE	



READER & SWARTZ
ARCHITECTS, P.C.
113 W. CAMERON ST. • WINCHESTER, VA 22601 • TEL. 244-443-9112

BELFORT OUTLET & WAREHOUSE
351 STATION RD
BERRYVILLE VA



SCHEMATIC FIRST LEVEL FLOOR PLAN
 SCALE: 1/8" = 1'-0"
 CHASE WALLS INDICATE EXISTING TO REMAIN (E.T.R.)

A2.1

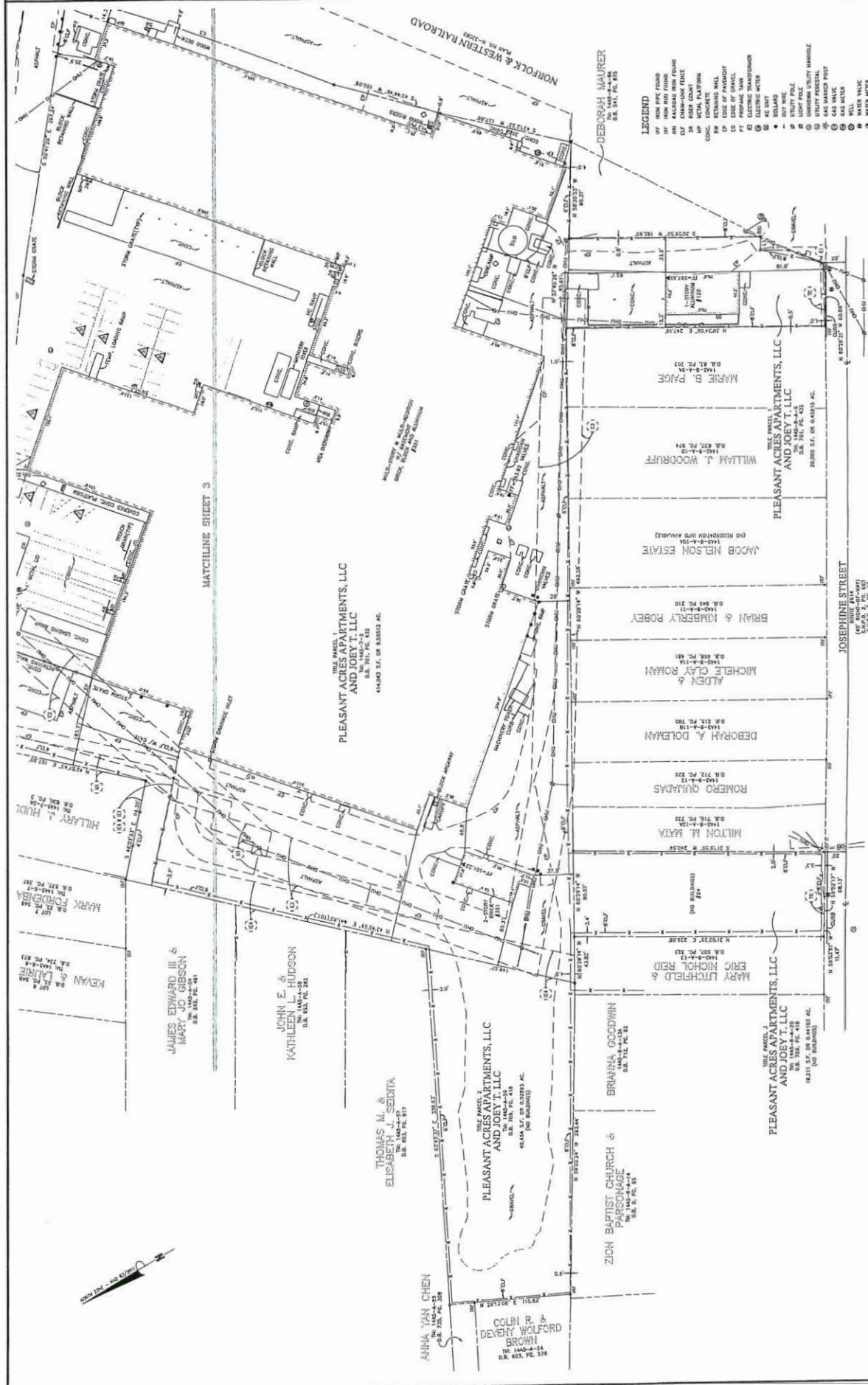
PRELIMINARY NOT FOR CONSTRUCTION

	
READER & SWARTZ ARCHITECTS, P.C. <small>813 N. CAMDEN ST. • WINGENSTEIN, PA. 22801 • TEL. 484-844-9411</small>	
BELFORT OUTLET & WAREHOUSE <small>351 STATION RD BERRYVILLE, VA</small>	

ALTA/SURVEY LAND TITLE SURVEY
 ON THE LANDS OF
 PLEASANT ACRES APARTMENTS, LLC
 AND JOEY T. LLC
 DEED BOOK 709, AT PAGE 432 (AS TO THE PARCEL 1)
 DEED BOOK 709, AT PAGE 418 (AS TO THE PARCELS 2, 3, 4, AND 5)
 CLARKE COUNTY, VIRGINIA

Bowman
 BCC PROJECT NO. 023268-01-001 TANK 00001
 11/7/2023
 11/7/2023
 11/7/2023

- LEGEND**
- BY BOWMAN FOUND
 - BY ALTA/SURVEY FOUND
 - BY FIELD NOTES FOUND
 - BY CHAIN-LINK FENCE
 - BY METAL PLATON
 - BY CONCRETE
 - BY EDGE OF GRAVEL
 - BY PREPARED TANK
 - BY ELEC. METER
 - BY AC BENT
 - BY REBAR
 - BY UTILITY POLE
 - BY UTILITY MANHOLE
 - BY UTILITY PRESSURE
 - BY GAS MARKER POST
 - BY GAS VALVE
 - BY WATER VALVE
 - BY WATER METER
 - BY FIRE HYDRANT
 - BY FIRE DEPARTMENT CONNECTION
 - BY SHIELDING MANHOLE
 - BY SHIELDING MANHOLE
 - BY CLEANOUT
 - BY PARKING TABULATION
 - BY DRAINAGE UTILITY



SECTION 609 L-1 INDUSTRIAL DISTRICT

609.1 PURPOSE AND INTENT

The L-1 Industrial District is established to provide locations within the Town of Berryville for a broad range of general light-industrial uses, recreational and event venues, infill development, and employment-related businesses operating under well-governed performance standards. The specific uses permitted within the L-1 District must be in harmony with the cultural and environmental character of the Town of Berryville. No use should be permitted that might be harmful to the adjoining land uses and the residential ambience of the community at large. Adaptive reuse is encouraged in the L-1 District. Outdoor storage and heavy industrial uses are discouraged but may be permitted by special use and environmental performance review. The L-1 District recognizes and is to be applied to existing conforming industry in the Town of Berryville as of the date of adoption of this District. Existing industrial uses shall be considered as satisfying the purpose and intent of the L-1 District, but expansion of existing industrial uses shall conform to the provisions herein. (08/16)

609.2 PERMITTED USES (12/94)

- (a) Auction establishments (indoor only) (5/95)
- (b) Business and professional offices (7/99)
- (c) Business service, supply and delivery establishments
- (d) Contractor's establishments without outdoor storage
- (e) Establishments for the production, processing, assembly, manufacturing, compounding, cleaning, servicing, testing and repair of materials, goods or products which conform to applicable Federal, State and local environmental performance standards or other standards referenced by the Town as related to (a) air pollution; (b) fire and explosion hazards; (c) radiation hazards; (d) electromagnetic radiation and interference hazards; (e) liquid and solid wastes hazards; (f) noise and odor standards; and (g) vibration standards.
- (f) Existing or expansion of existing industrial uses in operation as of the date of adoption of this Ordinance which conform to the previous industrial zoning district requirements.
- (g) Farm supply establishments
- (h) Financial institutions
- (i) Indoor mini-storage facilities
- (j) Light manufacturing, fabrication, testing or repair establishments without outdoor storage
- (k) Light warehousing establishments, without outdoor storage
- (l) Light wholesale trade establishments, without outdoor storage
- (m) Printing and publishing establishments
- (n) Private training and vocational schools
- (o) Public utilities (sub-stations, pump stations, transmission/receiving facilities and lines for telecommunications and similar uses, storage tanks, etc.)
- (p) Sheet metal shops
- (q) Small animal veterinary hospitals, exclusive of boarding kennels
- (r) Vehicle and machinery service, and parts sales ("service" including but not limited to internal and external repair, body work, paint, car washes, etc.)

- (s) Welding shops
- (t) Craft beverage manufacturing (03/18)

609.3 SPECIAL PERMIT USES

- (a) All above permitted uses requiring outdoor storage (10/94)
- (b) Day care centers (12/94)
- (c) Eating establishments including microbreweries, wineries, and distilleries (05/95, 08/16)
- (d) Heliports
- (e) Laundry and dry cleaning establishments
- (f) Lumber yards and building materials establishments
- (g) Motor freight terminals
- (h) Retail sales incidental to a manufacturing, production or related use, provided that:
 - a) the gross floor area used for retail purposes (excluding storage) shall not occupy more than five-thousand (5,000) square feet of gross floor area on any one lot, and shall not exceed twenty-five (25) percent of the total floor area for the site; and
 - b) the areas dedicated for retail uses must be indicated on an approved site plan.The provisions of this Section shall not apply to those permitted or special permit uses for which retail sales are a primary activity. (12/07)
- (i) Scientific research, development, and training establishments
- (j) Service stations
- (k) Vehicle and machinery sales and rentals
- (l) Recreation, commercial indoor (06/10)
- (m) Retreat and conference centers (08/16)
- (n) Residential lofts and apartments (08/16)
- (o) Wholesale/retail food hubs (08/16)
- (p) Commercial kitchens (08/16)
- (q) Hotels, motels, and accommodations (08/16)
- (r) Short-term rentals (10/23)

609.4 PROHIBITED USES

The specific uses which follow shall not be permitted in the L-1 District:

- (a) Asphalt mixing plants
- (b) Blast furnaces
- (c) Boiler works
- (d) Bulk storage of flammable materials
- (e) Coal, wood or wood distillation
- (f) Concrete mixing and batching products
- (g) Extraction or mining of rocks and minerals
- (h) Garbage incineration
- (i) Junk yards
- (j) Landfills
- (k) Manufacture of ammonia, chlorine, fertilizer, lime, cement, fireworks, explosives, soaps, acids, pesticides, herbicides or insecticides
- (l) Metal foundries and smelting
- (m) Petroleum, asphalt or related product refining
- (n) Rendering plants
- (o) Slaughterhouses

- (p) Stockyards
- (q) Tanning and curing of skins
- (r) Any other similar use which in the opinion of the Town Council might be injurious or noxious by reason of odor, fumes, dust, smoke, vibration, noise or other cause

609.5 MAXIMUM LOT COVERAGE

(12/91) The maximum lot coverage—including buildings, streets, parking spaces, driveways, loading areas and all other impervious surfaces—shall not be greater than seventy-five percent (75%) of the area of an L-1 lot.

609.6 MINIMUM DISTRICT SIZE

The minimum district size shall be four (4) acres.

609.7 LOT SIZE REQUIREMENTS AND BULK REGULATIONS

- (a) Minimum lot area: 30,000 square feet
- (b) Minimum lot width: 125 feet
- (c) The maximum building height shall be forty (40) feet, except in particular instances the Town Council may, upon recommendation from the Planning Commission or its agent, modify the maximum building height.
- (d) Minimum yard requirements
 - (1) Front yard: 50 feet
 - (2) Side yard: 25 feet (except where side yard abuts a public right-of-way the side yard shall be 50 feet) (5/94)
 - (3) Rear yard: 50 feet (5/94)

609.8 OPEN SPACE

- (a) An open space plan and landscape design program shall be submitted with applications for any land use governed by this District.
- (b) Twenty five percent (25%) of the site shall be landscaped open space. Landscaping may be limited to setback areas and unused portions.

609.9 PARKING, PARKING ACCESS AND DRIVEWAYS

- (a) No parking space shall be located closer than fifteen (15) feet from any common property line.
- (b) Where lot is contiguous to property located in any district other than the L-1, I, C-1 or C-2 District, no parking space shall be closer than 40 feet from such property line. (5/94)
- (c) All parking requirements shall be met by off-street, on-site spaces and shall include designated spaces for the handicapped and elderly.
- (d) Refer to Section 305 for additional off-street parking requirements.

609.10 SETBACK, BUFFERING AND LANDSCAPING

- (a) Where an L-1 lot is contiguous to property located in a district other than an L-1, I, C-1 or C-2 District, all buildings shall have a minimum 60-foot setback from lot lines. In particular instances the Town Council may waive the 60-foot setback requirement, upon recommendation from the Planning Commission. (5/94)

Section 609 Industrial (L-1) District

- (b) Where an L-1 lot is contiguous to property located in a district other than an L-1, I, C-1 or C-2 District, a landscaped buffer strip of 30 feet in width shall be provided, with landscape materials and placement subject to final plan approval. Where contiguous to a C-1 or C-2 District property, the landscaped buffer strip shall be 15 feet. Approved fencing or additional buffering may be used in lieu of landscaping. (5/94)

609.11 STORAGE OF GOODS, MATERIALS, FUEL AND REFUSE

- (a) The outdoor area devoted to storage, loading and display of goods shall be limited to that area so designated on an approved site plan.
- (b) All equipment and materials shall be contained entirely within a building or screened from public rights-of-way and contiguous properties that are in land uses other than industrial in nature.
- (c) Any establishment involved with the storage of fuel for sale, or for other purposes, shall be permitted only if the fuel is stored underground, except where otherwise permitted under provisions granted and stipulations required by the Town Council.
- (d) All refuse shall be contained in completely enclosed facilities and shall be screened.

609.12 STREET ENTRANCES

- (a) On a corner lot, no street entrance shall be located closer than 60-feet to the curb line extended from the intersecting street. This distance may be increased with respect to the types and turning radii of vehicles using the site.
- (b) No street entrance shall be located closer than 30 feet to a side or rear lot line, unless a common street entrance serves adjacent uses, and in no instance shall the distance between separate street entrances serving adjacent uses be less than 60 feet. The maximum width of such street entrances shall not exceed thirty feet (30').
- (c) A freestanding use shall have no more than two street entrances on any single right-of-way, and such street entrances shall have a minimum distance of 90 feet between them.

609.13 SITE PLAN REQUIREMENTS AND PERFORMANCE STANDARDS

- (a) All uses shall be subject to final site plan approval.
- (b) Any L-1 District land use application which is not in strict compliance with the pre-existing approved master site plan and preliminary plat for the district shall require an amendment to that master site plan and preliminary plat prior to site plan approval of the specific use.
- (c) Master site plans and preliminary plats for L-1 Districts shall include provisions for:
 - (1) adequate public facilities;
 - (2) development phasing;
 - (3) stormwater management facilities to address the ultimate development coverage within the district;
 - (4) lighting and signing; and
 - (5) other special features and land use considerations deemed necessary to serve the industrial district.

Section 609 Industrial (L-1) District

- (d) Applications for all uses subject to special use permits shall be accompanied by a report indicating the compliance with and use compatibility issues related to the Town's applicable performance standards.

609.14 ADDITIONAL REQUIREMENTS

- (a) Public Streets within the L-1 District shall be constructed to industrial road standards as determined by the Town Council or its agent. Sidewalks may be required on one or both sides of the street.
- (b) Common property ownership agreements and covenants for L-1 District developments shall be reviewed and approved by the Town Council or its agent.
- (c) Refer to Section 306 for off-street loading requirements.
- (d) Refer to Sections 301-304 for general regulations and other provisions which may supplement those cited herein.
- (e) Refer to specific Overlay Zoning districts, where applicable.

SECTION 503 - SPECIAL USE PERMIT

503.1 PROVISIONS FOR SPECIAL USE PERMITS

- (a) In consideration of an application filed with the Zoning Administrator, the Council may, after a public hearing, authorize the establishment of those uses that are expressly listed as Special Permit uses in a particular zoning district.
- (b) In addition to all applicable conditions and requirements of this Ordinance, the Council may impose any conditions deemed appropriate in the public interest to secure compliance with the provisions of this Ordinance.
- (c) Once a Special Use Permit is granted, the use shall not be enlarged, extended, increased in intensity or relocated unless authorized by the Council.
- (d) Whenever a Special Use Permit is granted by the Council, the authorized activities shall be established within one (1) year of the date of approval, or such Special Use Permit shall expire without notice.
- (e) Should the owner or operator of the use covered by the Special Permit fail to observe all requirements of law with respect to the maintenance and conduct of the use and all permit conditions, the Council may, after due notice to permit holder and a public hearing, revoke the Special Use Permit.

503.2 APPLICATIONS

An application for a Special Use Permit may be submitted by the property owner of record, tenant, or contractor owner.

503.3 APPLICATION REQUIREMENTS

Applications for Special Use Permits shall be accompanied by seven (7) copies of the following items:

- (a) Letter of request, signed by property owner and applicant, outlining complete details of special use desired.
- (b) Site development plan.
- (c) Floor plan, front, side, and rear elevations of proposed new buildings.
- (d) Certified house location plat.
- (e) Information deemed necessary by the Zoning Administrator.
- (f) Applicable filing fee.

503.4 APPLICATION PROCEDURE

- (a) Application submitted to Zoning Administrator, which shall be referred to the Planning Commission for recommendation, and a public hearing shall be scheduled by the Town Council.
- (b) Review by the Planning Commission (public hearing if desired) and recommendation to Town Council.
- (c) Public hearing by Town Council.
- (d) Town Council action (In acting upon the application, the Town Council shall consider the following, among other relevant factors):
 - 1. The health, safety, and welfare of the general public.
 - 2. Physical and visual impact on adjoining and abutting properties.
 - 3. Adequate utilities, drainage, parking, and other necessary facilities to serve the proposed use.

4. Compliance with the adopted master plan.
 5. Environmental compatibility.
 6. Community sentiment.
- (e) Applicant to be notified by Zoning Administrator of Town Council action.

SECTION 504 - SCHEDULE OF FEES, CHARGES, AND EXPENSES

504.1 The Town Council shall establish, by resolution, a schedule of fees, charges, and expenses and collection procedures for zoning permits, certificates of use and occupancy, special permits, variances, appeals, amendments, and other matters pertaining to this Ordinance.

504.2 The schedule of fees shall be available for inspection in the office of the Zoning Administrator and may be altered or amended by the Governing Body by resolutions. Until all application fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

Legal Notices

Legal Notices

BERRYVILLE PLANNING COMMISSION PUBLIC HEARING NOTICE

The Berryville Planning Commission will hold the following public hearings at 7:00 p.m. or as soon after as these matters may be heard, on Tuesday, April 28, 2026, in the Main Meeting Room, Second Floor, of the Berryville/Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia, to consider the following:

Beach Carpenter Properties LLC, Jon K. Erickson, agent, is requesting a Special Use Permit in order to allow vehicle sales (Section 609.3(k) of the Town of Berryville Zoning Ordinance) on the property located at 29 Cattleman's Lane, identified as Tax Map Parcel number 14A3-(A)-17A, zoned L-1 Industrial, SUP 02-26.

Belfort Furniture, Inc. is requesting a Special Use Permit in order to allow a retail sales (Section 609.3(h) of the Town of Berryville Zoning Ordinance) on the property located at 351 Station Road, identified as Tax Map Parcel number 14A5-(7)-1, 14A5-(7)-2, and 14A5-(A)-56 zoned L-1 Industrial, SUP 01-26.

A text amendment to ARTICLE IV - ADMINISTRATION AND ENFORCEMENT SECTION 509 AMENDMENTS WITH PROFFERED CONDITIONS of the Berryville Zoning Ordinance to correct the reference to the Code of Virginia to Title 15.2-2298.

Copies of the applications, amendments, and maps may be examined at the Town Business Office, Berryville/Clarke County Government Center, 101 Chalmers Court, First Floor, Berryville, Virginia during regular business hours. Additional information may be obtained by calling Community Development Director Terry Russell at 540-955-4081. Any person desiring to be heard on these matters should appear at the appointed time and place.

The Town of Berryville does not discriminate against disabled persons in admission or access to its programs and activities. Accommodations will be made for disabled persons upon prior request.

By order of the Berryville Planning Commission
Terry Russell, Community Development Director

Planning Commission Agenda Item Report Summary

April 28, 2026

Item Title

Public Hearing - Zoning Text Amendments to Section 509, Amendments with Proffered Conditions

Prepared By

Terry Russell

Background/History/General Information

A review of Zoning Ordinance Section 509, Amendments with Proffered Conditions, revealed a technical error in a reference to the Code of Virginia that needs to be corrected. Section 509 refers to Code of Virginia Title 15.1 491.2:1. This section of the Code was deleted many years ago. The Town Zoning Ordinance needs to reference the current proper section of the Code. The proposed Zoning Text Amendments will correct that issue. It is important to correct this reference because the Town currently has a rezoning application that includes proffered conditions.

The proposed amended language is attached.

Recommendation

Recommend that the Town Council adopt the attached Zoning Text Amendments to Section 509, Amendments with Proffered Conditions, as proposed.

Sample Motion

I move that the Planning Commission recommend that the Town Council of Berryville, VA approve the Zoning Text Amendments to Section 509, Amendments with Proffered Conditions, of the Berryville Zoning Ordinance.

Attachments:

Proposed Zoning Text Amendment

SECTION 509 - AMENDMENTS WITH PROFFERED CONDITIONS

(1/90)

509.1 VOLUNTARY PROFFERED CONDITIONS

Pursuant to ~~Section 15.1-491.2:1~~ Title 15.2-2298 of the Code of Virginia, the Planning Commission and/or the Town Council may consider reasonable conditions to be applied to a rezoning amendment initiated pursuant to Section ~~507.4~~ 508.4 of this Ordinance provided:

- (a) The conditions are voluntarily submitted by the applicant;
- (b) Proposed proffered conditions are in writing and signed by all of the legal and equitable owners of the property which is the subject of the proposed amendment;
- (c) The proposed conditions are in accordance with the Comprehensive Plan;
- (d) The proposed conditions bear a reasonable relation to the rezoning;
- (e) The proposed conditions are received by the Planning Commission and/or the Town Council prior to commencement of the public hearing of the Planning Commission and/or the Town Council at which the proposed rezoning amendment is to be considered; and
- (f) The proposed conditions are in full accordance with ~~Section 15.1-491.2:1~~ of the Code of Virginia.

509.2 EFFECT OF CONDITIONS

Upon approval of any rezoning approved subject to proffered conditions, all conditions proffered by the applicant and accepted by the Town Council shall be deemed part of the zoning regulations affecting the district in which the parcel is classified. Such conditions shall remain in force until fully performed by the applicant or amended or released by the Town Council in accordance with ~~Section 15.1-491.6~~ of the Code of Virginia.

509.3 PROFFERED CONDITION REGULATIONS

Following approval of any zoning approved subject to proffered conditions, no site plan,

subdivision plan, or development plan thereafter submitted for the development of the property in question shall be approved unless in substantial conformity with all proffered conditions, and no agent or official of the Town shall have the power to permit any development or construction upon the property not in substantial conformance with such proffered conditions.

509.4 PROFFERED AMENDMENTS

Proffered conditions may be amended or released by the Town Council upon application for zoning amendment submitted in accordance with Section ~~507~~ 508. Any such amendment shall be the subject of a public hearing in accordance with the provisions of Section ~~507.1~~ 508.7.

509.5 ZONING MAP NOTATION AND CONDITIONAL ZONING INDEX

Each rezoning shall be designated on the Zoning Map by an appropriate symbol designated by the Zoning Administrator. In addition, the Zoning Administrator shall keep and maintain the conditional zoning index, which shall be available for public inspection and which shall provide ready access to the ordinance creating such conditions.

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By order of the Berryville Planning Commission
Terry Russell, Community Development Director

Planning Commission Agenda Item Report Summary

April 28, 2026

Item Title

Set Public Hearing – Subdivision Ordinance and Zoning Ordinance Text Amendments

Prepared By

Terry Russell

Background/History/General Information

Senate Bill 974 was approved by the General Assembly and signed into law by the Governor as part of the 2025 General Assembly Session. The changes to the Code of Virginia became effective July 1, 2025. The legislation removes planning commission and governing body approval authority for the administrative review process for plats and plans and assigns authority solely to a designated agent, defined in the bill. However, the bill provides that the local planning commission may serve as the designated agent of any locality with a population of 5000 or less. The bill also expedites the review process by shortening the timeframe for forwarding plats and plans to state agencies for review. Senate Bill 974 is attached to this report.

Discussion

The Town Staff briefed the Town Council on the changes to the Code of Virginia at its meeting on June 10, 2025. The Planning Commission voted to sponsor review of the Subdivision Ordinance July 2, 2025. The has completed its review of the Subdivision Ordinance and the Zoning Ordinance and is ready for the Planning Commission to move forward with its consideration of proposed amendments. Clarke County has amended its ordinances. Although the Town may have a population less than 5000 at this time, it is likely to exceed this threshold in the near future. A google search produced estimates of Berryville's population at 4,782 in 2023, and an estimate of 4,911 in 2025. If these are even approximately accurate, the plat of Hillson Grove subdivision for 20 lots currently under construction may produce enough new residents to take the population over the threshold. Development of the Friant property on Battlefield Drive would surely exceed the threshold at the densities proposed by the current potential developer. Draft Subdivision Ordinance and Zoning Ordinance text amendments are attached to this report.

Recommendation

Set a Public Hearing on the proposed Subdivision and Zoning Ordinance amendments for the Planning Commission meeting to be held on May 26, 2028.

Sample Motion

I move that the Planning Commission of the Town of Berryville set a public hearing on proposed text amendments to the Subdivision Ordinance and the Zoning Ordinance to be held on May 26, 2026

Attachments:

- Draft Subdivision Ordinance Text Amendments
- Senate Bill 974 (2025)

6

ARTICLE I. CONSTITUTION AND PURPOSE

A. TITLE AND APPLICATION

The regulations embraced in this Article shall be known, cited, and referred to as the “Subdivision Ordinance of the Berryville Area, Virginia.”, hereinafter “Ordinance”. The provisions of this subdivision ordinance shall apply to all land which is under the incorporated jurisdiction of the Town of Berryville and to that land identified as “Area B” in the Clarke County/Town of Berryville Annexation Agreement.

B. PURPOSE AND INTENT

The Subdivision Ordinance of the Berryville Area, Virginia (~~hereinafter “Ordinance”~~) is intended to guide and facilitate the orderly and beneficial growth of the community, to assure the orderly subdivision of land and its development and for the general purpose of promoting the health, safety, and general welfare of the public and of further accomplishing the objectives of Section ~~15.2-2240 et seq.~~~~15.1-465~~ of the Code of Virginia, ~~as amended~~.

It is hereby declared to be the policy of the Town of Berryville to consider the subdivision of land as subject to the power of the Town to implement the Berryville Area Plan and the Town Comprehensive Plan. ~~This Ordinance is adopted for the following purposes:~~

- ~~1. To ensure the growth of the community is consonant with the efficient and economical use of public funds;~~
- ~~2. To ensure that residential areas are provided healthful surroundings for family life;~~
- ~~3. To improve the public health, safety, convenience, and welfare of the citizens of the County and Town;~~
- ~~4. To clearly establish the procedures which must be followed in order to subdivide land in the County and Town, subject to this Ordinance; and~~
- ~~5. To ensure that this process includes appropriate and applicable reviews.~~

C. AUTHORITY FOR ORDINANCE

The Berryville Town Council, ~~pursuant to recommendation of the Berryville Planning Commission and public hearings held in accordance with Section 15.1-431 of the Code of Virginia, does,~~ by the adoption of this Ordinance, hereby exercise the ~~police~~ power conferred by Sections ~~15.1-465 through 15.1-485~~~~15.2-2240 et seq.~~ of the Code of Virginia to assure the orderly subdivision of land, and ~~the police power conferred by Section 15.1-447 of the Code of Virginia~~ to implement the comprehensive plans of the County and Town, ~~and the general police power as conferred by Section 15.1-510 of the Code of Virginia.~~

D. SEVERABILITY AND VALIDITY

Should any article, section, or part of this Ordinance be decided by the courts to be invalid or unconstitutional, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part held unconstitutional or invalid.

E. CONFLICTING ORDINANCES

All other County/Town ordinances, or parts thereof, which are inconsistent with the provisions of this Ordinance are hereby repealed. If another state or federal statute or Town/County ordinance or regulation contains conflicting provisions with this Ordinance, the more restrictive of the provisions, ordinances, or regulations shall govern.

F. MINIMUM REQUIREMENTS

In interpreting and applying this Ordinance, the provisions herein shall be considered as the minimum requirements for the promotion of the public safety, health, or general welfare. It is not the purpose of this Ordinance to interfere with, abrogate, or annul any subdivisions, recorded lots, easements, covenants, or other agreements between parties, provided however, that where this Ordinance imposes a greater restriction upon the subdivision and use of land, buildings, or required larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

G. EFFECTIVE DATE

This Ordinance was adopted on March 27, 1990 by the Town Council of Berryville, Virginia, and became effective at 12:00 a.m. on March 28, 1990, at which time all previous subdivision provisions and ordinances applicable to the Town of Berryville and Area B were repealed. A certified copy of the Ordinance, as may be amended from time to time, shall be filed in the Office of the Town Manager and in the Office of the Clarke County Director of Planning.

ARTICLE II. GENERAL REGULATIONS

A. GENERAL EFFECT

The effects of this Ordinance shall be consonant with the objectives of the Town to assure the orderly subdivision of land and its development, to coordinate the development of streets within and contiguous to any subdivision, to establish adequate provisions for drainage, flood control and other public purposes, to ensure acceptable physical standards and criteria for subdivision improvements, to provide for the dedication of public rights-of-way, and to serve in implementing the Berryville Comprehensive Plan and Berryville Area Plan, as adopted.

B. PRIOR APPROVALS

Nothing in this Ordinance shall be deemed to require any change in or invalidation of plats previously approved and of record prior to the effective date of this Ordinance.

C. ADMINISTRATION AND ENFORCEMENT

The administration and enforcement of this Ordinance shall be vested in the ~~Berryville Town Council~~ Designated Agent of the Town of Berryville.

1. The Town Council shall authorize the Designated Agent to review and act on subdivision plats, site plans, and plans of development.
2. Whenever the owner or proprietor of any tract of land located within the Town of Berryville desires to subdivide the tract, a plat of the proposed subdivision shall be submitted to the Designated Agent for such purpose (Code of Virginia 15.2-2258).
3. No plat of any subdivision shall be recorded unless and until it has been submitted to and approved by the Designated Agent (Code of Virginia 15.2-2254).

1. ~~The Administrative Body~~

~~The Berryville Area Development Authority is hereby designated as the Administrative Body of the Town Council for the subdivision of land in that area known as Area B which is the subject of the subdivision application and for which no final certificates of occupancy have been granted. The Berryville Planning Commission is hereby designated as the Administrative Body of the Town Council for the subdivision of all other land subject to this Ordinance. In so doing, the Berryville Area Development Authority and the Berryville Planning Commission (hereinafter collectively referred to as the "Administrative Body") are hereby delegated the power to administer this Ordinance in their respective areas as indicated above. The Administrative Body shall review and act to approve or disapprove preliminary and final plats and plans within its jurisdiction as noted above. In the performance of its duties, the Administrative Body shall request and consider the review and comments of the Town, selected County staff, and applicable public agencies in making recommendations on all subdivision plats and plans. The Administrative Body may employ or engage additional assistance required for the technical review of subdivision plats and plans.~~

2. ~~The Administrative Body Agent~~

~~The Administrative Body may act through the Town's Subdivision Administrator (hereinafter referred to as the "Agent") and/or planning staff duly appointed as provided in Section 15.1-442 of the Code of Virginia, to the extent that the Administrative Body finds appropriate for the administration of this Ordinance; provided, however, that no person may act for the Administrative Body in approving, conditionally approving, or disapproving any preliminary plan, final plan, preliminary plat or final plat.~~

D. APPLICATION AND COMPLIANCE

1. Subdivision conformance with this Ordinance

No person shall divide or subdivide, or cause a subdivision to be made, by deed or plat, of any tract of land located within the Berryville Area (Town of Berryville or Area B), except in conformity with the provisions of this Ordinance. No land shall be subdivided for any use if the ~~Administrative Body~~ Designated Agent, in consideration of applicable criteria, deems such land unsuitable for such purposes.

2. Administrative Body Designated Agent approval required

Whenever the owner of any tract of land located within the Berryville Area desires to subdivide the same, the owner shall submit a plat of the proposed subdivision with reference to known or permanent monuments to the ~~Administrative Body Designated Agent or its Agent~~ in accordance with the requirements of this Ordinance. No owner shall subdivide land without making and recording a plat of such subdivision in the Office of the Clerk of the Circuit Court of Clarke County, and no such plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the ~~Administrative Body~~ Designated Agent, in accordance with the regulations set forth in this Ordinance.

3. Subdivision approval required before sale of lots

No person shall sell or transfer any land of a subdivision before a plat of such subdivision has been duly approved and recorded as provided herein. The Town adopts by reference enforcement and penalty provisions of VA §15.2-2254, including civil penalties, injunction authority, and voidability of unlawful transfers.

4. Ordinance relationship with private agreements

This Ordinance bears no relation to any private easement, covenant, agreement, or restriction. The responsibility of enforcing such private easement, covenant, agreement, or restriction is not implied to any public official.

E. WAIVER OF ORDINANCE REQUIREMENTS

1. Division of single lot or parcel of land

Where a single lot or parcel of land is proposed to be divided into not more than two (2) parcels, any one or more of the requirements of this Ordinance may be waived by the ~~Administrative Body~~ Designated Agent, and be subject to staff approval, provided that such subdivision:

- a. conforms in area and street frontage to the regulations and requirements of the zoning district regulations of the governmental entity wherein the land lies;
- b. does not involve any new public street, road, or easement of access;
- c. does not, in the opinion of the County, Town or state, obstruct any natural drainage or planned transportation facility;
- d. does not adversely affect any part of any adopted Comprehensive Plan and/or the Berryville Area Plan, as adopted; and

- e. does not in any way violate the intent of this Ordinance, the Zoning Ordinance of the County/Town, ~~or the Virginia Stormwater Management Handbook, the Berryville Erosion and Sediment Control Handbook, or the Berryville Area Stormwater Management Facilities Plan.~~

2. Unusual situations

The ~~Administrative Body~~ Designated Agent may permit variations in or exceptions to the general regulations of this Ordinance in cases of unusual situations or when strict adherence to the general regulations would result in substantial injustice or hardship, provided, however, that no such variations or exceptions shall be permitted by the ~~Administrative Body~~ Designated Agent unless it is found it finds:

- a. that the strict application of this Ordinance would produce undue hardship;
- b. that the hardship is not shared generally by other properties in the same vicinity;
- c. that the authorization of such variation or exception will not be of substantial detriment to adjacent property and that the character of the zoning district will not be changed by the granting of the variation or exception; and
- d. that the condition or situation of the property covered is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance.

F. CLUSTER SUBDIVISIONS

The purpose of the cluster method of subdivision is to permit an alternative to standard subdivision design which will promote flexibility of layout and variety of type in residential dwellings, without sacrificing existing per-acre dwelling densities or changing the character of the neighborhood, and at the same time, preserve scenic and useful open space for common enjoyment. Procedures for plat filing and review shall be the same as for standard subdivisions.

1. However, the application of the cluster method of subdivision shall be subject to the requirements of the applicable Town/County Zoning Ordinance pertaining to:

- a. cluster development in the respective zoning classifications and
 - b. site plan regulations.
2. A detailed proposal setting forth the post-development utilization of open space areas must be submitted and approved before final plat approval. The detailed proposal shall include covenants, agreements, or other specific documents, showing the ownership of and maintenance and utilization of those areas within the subdivision which are declared to be open spaces for common use. The proposed method of ownership and maintenance in perpetuity of all common spaces must be acceptable to and approved by the Town, and must be set forth in the deed of dedication which shall be recorded with the final plat.

G. CONDOMINIUMS

Insofar as the relationship of condominium development to the provisions of this Ordinance is concerned, condominium development shall comply with underprovisions of the Virginia Condominium Act 55.1, Chapter 19, including unit owner rights, plat recordation standards, and common area ownership. Additionally, condominium development ~~Condominium Laws of Virginia~~ shall be subject to the following:

1. Minimum lot size and yard requirements of the district shall be met as if lot lines existed.
2. A Master Development Plan shall be required and subject to review and approval by the Administrative Body Designated Agent and shall govern the location of all site structures and improvements on final plats and plans.
3. Setback, density, and other zoning district provisions shall be met.

H. EROSION AND SEDIMENTATION CONTROL REGULATIONS

1. ~~For the purpose of alleviating the adverse effects of on- and off-site erosion, siltation and sedimentation before, during, and after development, a~~ adequate erosion and sediment controls, both temporary and permanent, shall be subject to final subdivision plat and plan approval, reflect applicable regulations and best practices, and shall comply with Virginia Department of Environmental Quality stormwater requirements, the Virginia Erosion and Stormwater Management Regulations (9VAC25-875), and Management Handbook and Berryville's Construction Standards and Specifications Manual. Erosion and Sediment Control Handbook and the guidelines set forth by the applicable Town or County Erosion and Sediment control Ordinance.
2. No site improvements may be initiated prior to (a) posting of a performance bond, and (b) approval of the construction and maintenance methods for all vegetative and structural erosion and sediment control measures, ~~which shall be in accordance with the minimum standards and specifications of the Virginia Erosion and Sediment Control Handbook, the Virginia Department of Transportation, and the standards set forth by the applicable Town or County Erosion and Sediment Control Ordinance.~~

I. PARKS, SCHOOLS, OPEN SPACE, AND PUBLIC LAND

In the subdividing of land, consideration should be given to suitable sites for parks, schools, and other areas of public use as described in the Berryville Area Plan. Such areas should be located and indicated on the preliminary master plan, preliminary plat, and final plat in order that it may be determined if, when, and in what manner such areas will be dedicated to, reserved for, or acquired by the Town/County for that use. This provision shall not be construed to preclude the dedication of property for public use not included in the Berryville Area Plan, provided such property is acceptable to the Town/County for such dedication and maintenance.

J. DEDICATION FOR PUBLIC USE

No plat of a subdivision showing any public lands, easements, or rights-of-way shall be recorded, nor shall any such lands, easements, or rights-of-way otherwise be accepted for dedication to public use until such dedication shall meet requirements of VA §15.2-2265, ~~first~~ be approved and accepted by the Town Council/Board of Supervisors, and evidence of such approval is shown on the instrument to be recorded. Such approval shall not be given by the Town Council/Board of Supervisors until any such easement or right-of-way complies with all requirements as the Town Council/Board of Supervisors and the Virginia Department of Transportation may impose.

K. PHASING

1. Once the design and development plans of a proposed subdivision project have been approved by the Town, the developer may construct the project in phases. The developer shall provide a construction bond for each phase of construction.
2. The developer must provide a schedule of work. If not completed on schedule, the bond for that phase shall be called.
3. After five years, any further work and/or improvements installed shall be subject to review by the Town and may be placed under updated requirements, specifications, and standards, subject to vested rights under VA §15.2-2307.

L. BOUNDARY LINE ADJUSTMENTS

1. The boundary lines of any lot or parcel of land may be relocated or otherwise altered as a part of an otherwise valid and properly recorded plat of subdivision or re-subdivision and executed by the owner or owners of such land as provided in Section ~~15.1-477~~15.2-2264 of the Code of Virginia ~~(1950, as amended)~~, provided:
 - a. that such action does not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas;
 - b. that no easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein;
 - c. that such action does not create a nonconforming situation according to the Town Zoning Ordinance;
 - d. that such action does not alter a boundary line that is coincident with a zoning district boundary; and

- e. that such action does not create additional lots beyond those already approved.
2. Boundary line adjustments involving plats approved under the Town Subdivision Ordinance must be approved by the ~~Administrative Body~~ Designated Agent.

M. APPEAL PROCEDURES

1. An applicant may appeal any adverse decision or failure to act by the Designated Agent according to the provisions of Section 15.2-2259 of the Code of Virginia.

ARTICLE III. SUBDIVISION IMPROVEMENTS REQUIRED

A. GENERAL

1. Design and specification approval

~~a.~~ — No subdivider shall begin the clearing of land, including tree removal, or the construction of any improvements without first submitting plans and specifications to the Town. Such improvements may require the written approval of the Virginia Department of Transportation, or other applicable state or local agency.

~~b.~~ — Installation and materials shall conform to Town of Berryville Constructions Standards and Specifications Manual ~~adopted Town Design and Construction Standards~~ in effect at the time of construction.

2. Installation of improvements

The ~~Administrative Body Designated Agent~~ shall require that the subdivider show all improvements on the plat as specified herein for final plat approval. Said improvements shall be installed in compliance with the requirements of any or all plans and plats approved by the ~~Administrative Body Designated Agent~~, Virginia Department of Transportation, or any other applicable state or local agency.

3. Cost of improvements

All required on-site public improvements shall be installed at the expense of the subdivider, unless County/Town cost-sharing or other means of County/Town participation are indicated by the Director of Planning and Town Manager. Such agreements shall be formally entered into prior to final plat approval.

4. Requirements for easements

Easements and lines for water and sewer services shall be subject to approval by the ~~Town Council or its Agent~~ Town Engineer, Director of Community Development, and Director of Public Works. In cases where specifications have been established, either by the Virginia Department of Transportation for streets, etc., or by this Ordinance, such specifications shall be followed. Drainage easements shall be subject to Town approval and acceptance.

5. Penalties

Any subdivider initiating any construction in violation of this Section shall be guilty of a misdemeanor, and punishable by a fine of not more than that which is allowed by State statute. Any person who should knowingly continue construction after the issuance of a STOP WORK Order by the Zoning Administrator, Building Inspector, or other authorized representative of the Town shall be subject to a penalty of ~~five hundred dollars (\$500)~~ the maximum permitted by state law for each day of said construction which should continue after issuance of the STOP WORK Order. The Town Council may require that any construction done after a STOP WORK Order be removed and the area restored to its original condition

Required Improvements

6. Bond release
Any required subdivision bond shall not be released until all required construction has been satisfactorily completed and approved by the Town Council, wherein discharge and release of the subdivision bond shall be executed.
7. Clearing for surveying
Limited clearing for the purpose of surveying may be done before preliminary plat application, if the Town is given prior notification in writing and approves such clearing.
8. Public Improvements
All public improvements shall be completed within one year of recordation of the final plat unless otherwise specified by the Town Council, or bond funds may be utilized to install public improvements as indicated on approved final plat or plan.-

B. TRANSPORTATION IMPROVEMENTS

No final plat or plan shall be approved until the Administrative Body Designated Agent is assured that the following will have been provided:

1. Construction of, and right-of-way dedication for, required vehicular travel lanes, service drives, driveway entrances, or other access connections, which will permit vehicular travel within the subdivision, and to and from adjacent properties.
2. Construction of, or fee dedication for, widening of existing roads, existing roads on new alignments, and proposed roads, all as indicated on the adopted Berryville Area Plan and where the need for such roads are substantially generated by the proposed subdivision.
3. Subdividers shall be required to reserve right-of-way for major highways and interstate highways where applicable. Dedication of rights-of-way for any major public transportation improvements shall be as indicated on the transportation element of the adopted Berryville Area Plan.
4. Subdividers shall be required to dedicate and construct off-site streets, or to improve existing streets if, in the opinion of the Town, the subdivision does not have adequate ingress or egress.
5. Where the adopted Berryville Area Plan indicates a right-of-way greater than that existing along a border of a subdivision or lot, such additional right-of-way shall be shown on the plat as dedicated to public use. Where a subdivision has occurred on public streets with less than fifty feet right-of-way width, the right-of-way width required in Section IV.B.4 of this ordinance, additional right-of-way shall be dedicated in order that the total public right-of-way shall equal fifty feet in the required width.
- 5-6. All street and utility improvements shall be constructed in accordance with the Town of Berryville Construction Standards and Specifications Manual.
- 6-7. Curb and gutter (CG-6, or approved equivalent) shall be required on all new public streets. The Administrative Body Designated Agent may require curb and gutter on private streets and/or private parking areas where traffic

conditions warrant and on recommendation from staff Town Engineer, Director of Community Development, and Director of Public Works. Construction of curb and gutter may be required around all medians that separate travel lanes and service drives from existing streets and that separate off-street parking areas from streets, service drives, and travel lanes. However, the Administrative Body Designated Agent may waive, ~~upon recommendation from staff,~~ the construction of curb and gutter on a travel lane where it would be in keeping with the existing/proposed design of the travel lane or parking aisle on adjacent properties so that adequate and safe traffic circulation between sites can be obtained without curb and gutter.

7.8. ~~At its discretion, the~~The Administrative Body Designated Agent may waive curb and gutter in any residential subdivision where average lot size exceeds 15,000 square feet and the average lot frontage exceeds 100 feet.

C. CONSTRUCTION OF SIDEWALKS AND TRAILS

1. Sidewalks shall be constructed, at no cost to the Town, as required by Article III, Section 319 of the Berryville Zoning Ordinance. All sidewalks shall be constructed in accordance with Virginia Department of Transportation standards. ~~(09/05)~~
- ~~2. The subdivider shall provide all improvements necessary to sidewalks in the subdivision in conformity with Section 15.2-381 of the Code of Virginia, as amended, requiring curb ramps for the handicapped.~~
- 3-2. The subdivider shall construct trails or walkways in accordance with the general location shown on the adopted Berryville Area Plan, together with such other connecting trails or walkways within the limits of the subdivision plan.

D. UTILITIES

All necessary utilities shall be provided and constructed by the subdivider or utility company to serve the proposed subdivision and shall be installed underground in accordance with adopted County/Town standards, and standards and regulations issued by the appropriate regulatory agency; provided, however that

1. Equipment ~~such as the electric distribution transformers, switchgear, meter pedestals, and telephone pedestals, which are~~which is normally installed above-ground, may continue to be so installed, in accordance with accepted utility practices for underground distribution.
2. Meters, service connections and similar equipment normally attached to the outside wall of the premises they serve may be so installed.
3. Temporary facilities required for construction purposes may be permitted. The removal of such facilities shall be subject to a schedule approved by the Town of Berryville.
4. Easements and/or rights-of-way shall be dedicated for all utilities and other facilities within subdivisions that are intended to be publicly maintained. Such easements or rights-of-way shall be clearly defined on the plat or plan for the purposes intended.

E. STORMWATER MANAGEMENT FACILITIES

~~The Town may develop a Comprehensive Stormwater Management Facilities Plan to be applied in conjunction with the Berryville Area Stormwater Management Facilities Plan which addresses development and compliance within the Berryville Area. The plan will assist in determining the necessary structures, easements and costs to provide ultimate drainage facilities to serve County and Town drainage sheds at full development of those sheds. Such facilities plans shall be designed in accordance with the adopted Berryville Area Plan.~~

- ~~1. The facilities cost shall be updated annually by applying the Engineering News Record cost index factor. The facilities plan shall be adopted by the Town Council.~~
- ~~2.1. Subject to the adoption of a Comprehensive Stormwater Management Facilities Plan, a subdivider or developer of land shall be required to pay a prorata share of the cost of providing reasonable and necessary drainage facilities which may be outside the property limits of the land owned or controlled by the subdivider or developer, but necessitated or required, at least in part, by the construction or improvement of such land, in accordance with the intent and provisions of Section 15.1-466(j) of the Code of Virginia and the adopted Comprehensive Plan, the adopted Berryville Area Plan, the Comprehensive Stormwater Management Facilities Plan, as adopted, and this Ordinance.~~
- ~~3.2. The policy and criteria for determination of a prorata share of total cost, financial, and implementation procedures and other related matters shall be the responsibility of the Director of Planning Town Engineer, Director of Community Development, Director of Public Works, Director of Public Utilities, and Town Manager and adopted by the Town Council as part of the Comprehensive Stormwater Management Facilities Plan, as adopted.~~
- ~~4.3. The installation of an adequate drainage system for the disposition of storm runoff shall be in accordance with adopted Town Design and Construction Standards and compatible with the adopted Berryville Area Comprehensive Stormwater Management Facilities Plan, for the watershed as defined in the Berryville Area Comprehensive Stormwater Management Facilities Plan, or other state and federal agencies, if applicable, the Virginia Stormwater Management Handbook, the Construction Standards and Specifications Manual, and established best practices as determined by Town Engineer, Director of Community Development, Director of Public Works, Director of Public Utilities, and Town Manager.~~
- ~~5.4. The developer shall install adequate temporary and/or permanent erosion and sedimentation control measures meeting local, state, and federal requirements.~~

F. WATER AND SEWERAGE FACILITIES

All subdivisions of land in the Berryville Area (~~Town of Berryville and Area B~~) under the terms of this Ordinance, shall be approved for connection to the Town's water and sewer systems prior to final subdivision approval. No waiver shall be granted where there exists an adopted comprehensive facilities plan to provide future water and

sewer service to the area in which the subdivision is located. All easements required by the Town shall be provided for by the subdivider.

1. Extension of service

Generally, where public water or sewer service is reasonably accessible, such service shall be extended by the developer to all lots within a subdivision, ~~and~~ ~~s~~ Specifications, easements, and dedications shall be in conformity with requirements of the Berryville Construction Standards and Specifications Manual, established best practices as determined by Town Engineer, Community Development Director, and Director of Public Works, and all applicable local, state, and Federal regulation, ~~the Town.~~

2. Facilities plans

~~Water and sewerage facilities shall be designed in accordance with facilities plans adopted by the Town of Berryville.~~

~~a. The Town may develop a Capital Facilities Plan in conjunction with the Berryville Area Plan: Water and Sewerage Program, as adopted, to determine the projected sewage flow, collection mains and facilities, easements, and costs to provide ultimate sewerage service to the Berryville Area drainage sheds at full development of those sheds within the Town of Berryville and Area B.~~

~~b. The Town may develop a Capital Facilities Plan in conjunction with the Berryville Area Plan: Water and Sewerage Program, as adopted, to determine the projected water requirements, mains and facilities, easements, and costs to provide ultimate water service to the Berryville Area sub-areas, at full development of those sub-areas, within the Town of Berryville and Area B.~~

3. Cost sharing policies

a. ~~Subject to the adoption of comprehensive water and sewerage facilities plans, a~~ A subdivider or developer of land shall be required to pay the full cost under a reimbursement policy, or a prorata share of, the cost of providing reasonable and necessary water and sewerage facilities which may be outside the property limits of the land owned or controlled by the subdivider or developer, but necessitated or required, at least in part, by the construction or improvement of such land. ~~Such reimbursement policies shall be adopted by the Town of Berryville.~~

b. The policy and criteria for determination of a prorata share of total costs, financial and implementation procedures, and other related matters shall be the responsibility of the Town.

c. The cost of such facilities shall be updated annually by applying the Engineering News-Record cost index factor.

4. Private septic systems

a. No subdivision shall be approved in the Berryville Area where individual private septic tank systems are to be used.

~~b. Such subdivisions recognizing the utilization of septic systems are not conforming to the provisions of this Ordinance.~~

c. Where, for the convenience of the Town of Berryville, a public sewer line has not been located within 500 feet of a building requiring sewage disposal, or where it is unreasonable or financially impractical

to the Town to extend such public sewer lines, said building may be exempted from the requirements of this section. Such exemption may be granted only if it can be shown that the property can be properly served by an on-site septic system. Such exemption shall be authorized by the ~~Town Council~~Director of Community Development, Director of Public Works, Town Engineer, and Town Manager.

5. Private water systems

No subdivision shall be approved in the Berryville Area where individual private water systems are to be used.

G. MISCELLANEOUS IMPROVEMENTS

1. Street lights

~~Street lights shall be installed to light streets and other public ways.~~

~~Street lights shall be completed in accordance with plans prepared for the subdivider or developer and approved by the Town as meeting the required specifications for street lighting.~~

~~2. Other improvements (09/05)~~

Subdivision plat approval may be subject to the installation of other improvements as specified in this Ordinance or the Zoning Ordinance to include, where applicable, but not to be limited to, off-street parking and loading facilities, driveways, private streets, fences, walls, screening, and landscaping.

a. In the unlikely situation where the ~~Administrative Body~~ Designated Agent has determined that residential lots with reverse frontages are warranted on roadways, or where stormwater management facilities have been planned adjacent to roadways, a landscaped buffer area shall provide for plant material screening between adjacent land uses and along public rights-of-way. The buffer areas are required to run the length of adjacent property boundaries and public rights-of-way. Buffer areas shall not be used for buildings, the storage of materials, or vehicular parking. ~~Except for mulched areas adjacent to plant material, buffer areas shall have a living ground cover.~~

i. ~~buffer area widths for reverse frontage lots shall consist of the following:~~

(a) 15 foot buffer area adjacent to streets with rights-of-way less than fifty (50) feet;

~~(b)~~ 25 foot buffer area adjacent to streets with rights-of-way between fifty (50) and sixty (60) feet;

~~(c)~~ and 30 foot buffer area adjacent to streets with rights-of-way greater than sixty (60) feet, and any streets classified as State Primary Roads.

- ii. Quantity
 - (a) Plant material is required per square foot of buffer area as listed below:
 - 1. 15-foot buffer areas
 - A. Large canopy tree 1/500 square feet and
 - B. Medium canopy tree none required and
 - C. Small canopy tree 1/1000 square feet and
 - D. Shrub 1/50 square feet.
 - 2. 25 foot buffer areas
 - A. Large canopy tree 1/1500 square feet and
 - B. Medium canopy tree 1/1500 square feet and
 - C. Small canopy tree 1/1500 square feet and
 - D. Shrub 1/50 square feet.
 - 3. 30 foot buffer areas
 - A. Large canopy tree 1000 square feet and
 - B. Medium canopy tree 1000 square feet and
 - C. Small canopy tree 1000 square feet and
 - D. Shrub 1/50 square feet.
 - 4. Buffer area trees ~~in 15-, 25-, 30-foot buffers~~ shall be at least fifty percent (50%) evergreens.
- iii. Utility Lines

Small canopy trees ~~shall be substituted for large canopy trees where buffer areas are under and parallel to overhead utility lines. In other buffer areas, small canopy trees~~ should be used whenever trees are placed under overhead utility lines.
- iv. Plant Material Type and Location Specifications
 - (a) Schedule: All plans shall contain a schedule of plants proposed, indicating the number proposed, caliper or gallon size, and both common and botanical names.
 - (b) Condition: All plant material shall comply with the American Standard for Nursery Stock (ANSI Z60.1-1996). All plants shall be well formed, vigorous, healthy and free of disease, sunscald, windburn and insects or their eggs.
 - (c) Diversity: No single species of tree or shrub shall comprise more than 1/3 of the total number of trees or shrubs to be planted.
 - (d) Sight Distance: No tree, shrub, hedge or existing vegetation shall be planted or maintained in a way that interferes with prescribed sight distances.
 - (e) Size:
 - Minimum Caliper/Size
 - 1. Large canopy tree two (2) inch caliper
 - 2. Medium canopy tree two (2) inch caliper

Required Improvements

3. Evergreen tree six (6) feet tall
4. Small canopy tree six (6) feet tall
5. All shrubs eighteen (18) inches tall

(f) Planting: All plant material shall be installed in accordance with good trade practices. Trees shall be planted at least ten (10) feet apart. The Standardized Landscape Specifications for the Commonwealth of Virginia will serve as the basis for minimum acceptable plant installations (Plates 1 and 2). The Zoning Administrator or designee shall be notified seventy-two (72) hours prior to plant installation. The zoning Administrator will schedule a site visit to inspect all plant material to confirm minimum standards. Upon inspection, the Zoning Administrator may reject any plant material due to non-conformance.

(g) Selection: Disturbed areas not covered by paving, stone, or other solid materials shall be revegetated with plant species that are compatible with the natural vegetation and tree cover that have low water and nutrient requirements. All trees and shrubs will be based on their listing in the Manual of Woody Landscape Plants (Dirr), latest edition, and shall be native to the region, if possible; non-native species are allowed if they will grow in this region's environmental conditions and are non-invasive:

1. Large canopy trees shall:
 - A) Have a mature height over forty-five (45) feet as described in the Manual of Woody Landscape Plants;
 - B) ~~be native to the region, if possible; non-native species are allowed if they will grow in this region's environmental conditions and are non-invasive;~~
 - C) be typical of, but not limited to, maples or oaks;
 - D) not include: Female Ginkgo (ginkgo biloba), Poplar (Populus spp.), Silver Maple (Acer saccharinum), Tree of Heaven (Ailanthus altissima) or Black Locust (Robinia pseudoaciaca).
2. Medium canopy trees shall:
 - A) Have a mature height between thirty (30) and forty-five (45) feet with a spread of

Required Improvements

thirty feet as described in the Manual of Woody Landscape Plants;

B) ~~be native to the region, if possible; non-native species are allowed if they will grow in this region's environmental conditions and are non-invasive;~~

C) be typical of, but not limited to, Honeylocusts (*Glaeditisa triacanthos*), Blackguns (*Nyssa sylvatica*) or American Hornbeams (*Ostrya virginiana*).

3. Small canopy trees shall:

A) Have a mature height up to thirty (30) feet with an equal spread as described in the Manual of Woody Landscape Plants;

B) ~~be native to the region, if possible; non-native species are allowed if they will grow in this region's environmental conditions and are non-invasive;~~

C) be typical of, but not limited to, American Arborvitae (*Thuja occidentalis*), American Holly (*Ilex opaca*), or upright Juniper (*Juniperus sp.*).

4. Shrubs shall:

A) include evergreen varieties for at least 50% of the shrubs planted;

B) have a mature height of at least three feet as described in the Manual of Woody Landscape Plants;

C) ~~be native to the region, if possible; non-native species are allowed if they will grow in this region's environmental conditions and are non-invasive;~~

D) be typical of, but not limited to, Inkberry (*Ilex glabra*), Sweetshrub (*Claycanthis floridus*), *Juniperus sp.*, and Cherrylaural (*Prunus caroliniana*).

v. **Enforcement**

~~The enforcement of this Ordinance shall be the responsibility of the Zoning Administrator or designee.~~

The property owner or their agent on which the buffer is located shall be responsible for the general maintenance of all landscape buffer areas.

Required Improvements

- c. Subdivision plat approval may be subject to the installation of other improvements as specified by local, state, or Federal regulation, established best practices as determined by Town Engineer, Director of Community Development, and Director of Public Works, and other Town/County ordinances or as may be required to conform to standards of the Virginia Department of Transportation. ~~If no such standards exist, such improvements shall conform to good standard engineering practice and are subject to approval by the Town.~~
- d. Enforcement
The enforcement of this Ordinance shall be the responsibility of the Zoning Administrator or designee.

IV. SUBDIVISION DESIGN STANDARDS

A. GENERAL

~~The quality of a community is dependent on the quality of the individual subdivisions that are a part of it. A high quality community is made possible by a well designed infrastructure, which requires the cooperation of each subdivider and developer of land. Therefore, the~~The design of each subdivision in the Berryville Area shall be prepared in accordance with the principles and recommendations established by the Berryville Area Plan for land use, traffic circulation, community facilities and public services, and in accordance with the following general principles:

1. Size of lots and blocks

The size of lots and blocks and other areas for residential, commercial, industrial, and public uses shall be designed to provide adequate light, air, open space, landscaping, and off-street parking and loading facilities.

2. Solar access and preservation of natural features

The arrangements of lots and blocks and the street system shall be designed to protect solar access and to make the most advantageous use of topography and natural physical features. Tree masses and large individual trees shall, whenever possible and consistent with the provisions of this Ordinance, be preserved. Any system of sidewalks and roadways and lot layout shall be designed to take advantage of the visual qualities of the area.

3. Materials and construction techniques

~~a. — It is the intent of this Ordinance that all plat work, design, and construction work, normally done by Surveyors, Engineers, and Contractors, be performed in accordance with good standard practices, whether specifically addressed in this Ordinance or not. Such “standard practice” shall refer not only to work performed in the installation of necessary improvements and facilities, but also to the work of restoration of existing features and underground facilities.~~

~~b. — All construction shall conform to the standards of the Town or, in the event no Town standards exist, to the standards of the Virginia Department of Transportation. Unless otherwise shown, all material and construction technique specifications shall be in accordance with the requirements of the Virginia Department of Transportation in effect at the time of the plan and specification submission.~~

~~e.a. — All other~~ design criteria and construction standards shall be in accordance with applicable Town ~~Design and Construction Standards~~Constructions Standards and Specifications Manual. Where standards and criteria are not provided or are found not applicable, the Community Development Director, Director of Public Works, Town Engineer, and/or Town Manager shall provide the governing standards or shall rule upon those standards proposed by the developer.

~~In furtherance of the purposes of this Ordinance, the following minimum subdivision design standards, as applicable, shall be required and delineated on final subdivision plats.~~

B. STREETS

1. Street standards and design

~~a. All street and highway construction standards and geometric design standards shall be in accordance with those specified by the Virginia Department of Transportation and applicable Town Design and Construction Standards. In certain cases, the Town may modify street geometric design standards for local, collector, and minor loop streets with the provision that sufficient off-street parking be provided to complement the street system and approval for modification is obtained from the Virginia Department of Transportation where applicable.~~

b.a. Specifications for improvements to proposed and planned streets shall be in accordance with ~~the~~ Virginia Department of Transportation and/or Town ~~design standards and criteria established by the~~ Town Construction Standards and Specifications Manual.

e.b. All subdivisions must have direct access to publicly dedicated and publicly maintained roads, except that private roads may be permitted in accordance with the provisions in this Ordinance.

d.c. Subdivisions shall be designed so that lots will not front any arterial road unless the physiography, shape, or size of the tract would preclude other methods of providing access.

2. Street classifications

The classification of proposed streets shall be determined by an estimate of the anticipated vehicular traffic volume as currently prescribed, or as revised, by the Virginia Department of Transportation and shall apply to streets proposed by a subdivider and to all streets shown on the transportation element of the Berryville Area Plan. Costs of traffic count and estimates shall be borne by Owner or Developer.

3. Street layout

~~Streets in predominantly residential subdivisions shall be designed to discourage through traffic, but offset or jog streets shall be avoided.~~

4. Street width (06/24)

Public street rights of way shall conform to the following requirements:

ROW WIDTH	ADT	Design Speed	Road Width (Parking 2 sides)	Curb & Gutter	Buffer Strip	Sidewalk Width
55'	Up to 2,000	25 mph	30'	CG-6	5'	5'
65'	2,001 to 4,000	25 mph	36'	CG-6	7'	5'

5. Street right-of-way lines
Right-of-way lines shall conform to the property lines of lots and shall be parallel to the street center line.
6. Street grades
 - a. ~~A minimum street grade of 0.5 percent shall be required.~~ The grade of streets shall not exceed eight (8) percent unless approved by ~~the Town Council, and in no case shall a street grade exceed ten (10) percent.~~ Virginia Department of Transportation.
 - b. ~~A minimum street grade of 0.5 percent shall be required.~~
7. Street approach angle
Streets shall intersect ~~at~~ near right angles, ~~and of~~ not less than 80 degrees, unless otherwise approved by the ~~Town Council or its agent~~ Director of Community Development, Director of Public Works, and Town Engineer, or upon recommendation from the Virginia Department of Transportation for specific reasons of contour, terrain, or matching of existing patterns.
8. Curb and gutter requirements
Curb and gutter shall be required as provided in ~~Article III Section 320 of the Berryville Zoning Ordinance.~~ All curb and gutter sections shall be constructed in accordance with Virginia Department of Transportation Standards. ~~(9/05)~~
9. Half-street sections
Half-street sections (streets of less than the full right-of-way required) along the property line of land proposed for subdivision shall not be permitted, unless approved by the Virginia Department of Transportation. When a new subdivision abuts one side of an existing or platted street, the subdivider shall dedicate at least half of the right-of-way necessary to make such street comply with the minimum width fixed for the same by this section. However, where half-streets exist on adjoining property, the provisions of the section may be satisfied by the dedication of the remaining required right-of-way upon which the subdivision in question abuts. No building shall be permitted without such dedication.
10. Cul-de-sacs
~~Cul-de-sacs (minor neighborhood streets designed to have one end permanently closed)~~ shall not be longer than 600 feet. All cul-de-sacs must be terminated by a turnaround having a right-of-way radius of 50 feet and a paved radius (face of curb to face of curb) of 43 feet.
11. Coordination and continuation of streets adjacent to subdivision
 - a. Subdivision street layout shall allow for the planned continuation of existing streets in adjoining areas, and must not be such as to cause unnecessary hardship to owners of adjoining property which may be susceptible to future subdivision planning.
 - b. Subdivision streets shall be provided and designed to give access to adjoining acreage in conformance with the Berryville Area Plan and to the satisfaction of the Town.
 - c. ~~Any proposed street that will extend an existing street shall be improved in like manner as the existing street unless as otherwise~~

~~directed by the Virginia Department of Transportation (VDOT). The type of improvement and the construction materials shall be in accordance with VDOT and/or applicable Town standards and criteria or as otherwise established by the Town.~~

d.c. There shall be no buffer or reserve ~~strips (“hate strips” or “spite strips”)~~ limiting access from existing or planned through streets, except under such limitations and conditions as may be in the form of a written approval from the ~~Administrative Body~~Designated Agent. Such limitations and conditions in effect shall secure removal of the buffer or reserve strip whenever it is in the public interest that such be converted into a public street as an access or additional access to adjacent lands.

12. Street signs and names

- a. At each street intersection within or adjacent to the proposed subdivision one street identification sign of a design approved by the Town shall be installed by, and at the expense of, the subdivider/developer.
- b. The Town shall approve all new subdivision street names.
- c. Proposed streets that are obviously in alignment with other already existing and named streets shall bear the name of the existing streets. In no case shall the names of proposed streets duplicate existing streets irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, lane, or court.

13. Subdivision entrances

- a. No subdivision shall be approved unless the principle means of access thereto, and all streets within, shall conform to the standards of the Virginia Department of Transportation.
- b. Each entrance onto any public road for vehicular traffic to and from such subdivision shall be subject to the approval of the ~~Administrative Body~~Designated Agent upon the advice of the Virginia Department of Transportation Highway Engineer and shall be constructed in accordance with the applicable design standards of the Town of Berryville and/or the Virginia Department of Transportation.
- c. Where traffic generated from a subdivision exceeds 2,000 vehicle-trips per day, such subdivision shall provide connectors to any existing public road(s) at two locations. Where only one connection is feasible, the entrance roadway must be a four-lane divided road with a length of not less than 250 feet or as otherwise recommended by the Virginia Department of Transportation. There shall be no curb cuts along this four-lane divided entrance road.

14. Alleys

- a. Dead-end alleys and alleys in residential areas will not be permitted.
- b. Privately maintained and properly documented alley easements in commercial zones may be permitted at the discretion of the ~~town,~~ provided there is documentation acceptable to the Town ensuring the

~~maintenance and upkeep of the alley easement.~~ Designated Agent. No such alley easement shall be less than 24 feet in width.

15. Service drives

- a. ~~Service drives are discouraged except where required by Virginia Department of Transportation standard or regulation. Whenever a proposed subdivision contains, or is adjacent to a minor or major arterial, sufficient land shall be reserved so as to provide for subsequent construction of service drives or service streets approximately parallel to such right-of-way; but the Administrative Body may, when consistent with the public convenience and necessity, waive the requirement of such provision.~~
- b. ~~Except where impractical by reason of topographic hardship, the area between the drive and the major highway shall be sufficient to provide for scenic planting and screening. The dimension of the area between the service drive and a major highway and the points of access between the same shall be determined after due consideration of traffic safety requirements.~~

16. Streetlights (06/24)

The placement of street lights shall follow the guidelines below.

a. Residential

- *At intersections:*

In order to provide lighting within the intersection area of two local streets, a light ball shall be installed on one corner of any intersection or opposite the intersection in the case of a T-intersection.

- *Within cul-de-sac bulbs:*

A light pole will be installed within the cul-de-sac bulb when the cul-de-sac street is longer than 200 feet measured from the intersection of the intersection local streets to the center of the cul-de-sac bulb.

- *Mid-block streetlights:*

A minimum number of mid-block streetlights shall be installed in order to achieve a desired pole spacing of approximately 250 feet. The maximum spacing between lights should not exceed 300 feet and the minimum spacing between lights should not be less than 200 feet unless otherwise approved by the Community Development Director, Director of Public Works, and Town Engineer. Lights should desirably be located on or near property lines and not in front of structures when possible.

b. Commercial

Commercial street lighting will be reviewed ~~on a performance based review~~ as part of the site plan review and based on guidelines established above.

c. Collector Street Lighting

Street lights on collector streets with rights-of-way of sixty 60 feet or more with ADT² average daily traffic of 2,001 vehicles or more shall

maintain separation based on the guidelines established above. Cobra head fixtures may be installed on these roadways.

C. BLOCKS

1. Block length

The length of a block in a proposed subdivision shall be neither less than 400 feet nor more than 800 feet.

2. Block width

The width of a proposed subdivision block shall be sufficient to allow two tiers of lots of minimum depth, except where fronting on arterial streets. The ~~Administrative Body~~ Designated Agent, upon recommendation by the ~~Planning Community Development~~ Director and/or Town Manager, may approve a single tier of lots of minimum depth wherever physiography or Berryville Area ~~Master~~ Plan matters so dictate.

3. ~~Block orientation~~

~~Where a proposed subdivision adjoins an arterial street or a collector street the Administrative Body may require service streets or driveways parallel to such arterial or collector street, or reverse frontage lots, to facilitate safe ingress or egress to the subdivision.~~

4. Nonconforming blocks

Any proposed blocks of irregular shape or not conforming to the dimensions required in this Ordinance may be accepted upon special approval of the ~~Administrative Body~~ Designated Agent.

D. LOTS

1. Relationship to street

Each lot shall abut on ~~an existing public street or~~ a street dedicated by the subdivision plat or deed of dedication, ~~or on an existing public street.~~

2. Lot width and area

The minimum width and area of a proposed subdivision lot shall be as set forth in the adopted Zoning Ordinance.

3. Lot frontage

a. Except for lots fronting on a cul-de-sac, frontage shall not be less than that required by the Zoning Ordinance ~~and. This regulation may be reduced for frontage on a public street or private road cul-de-sacs, provided that driveway separation shall be in accordance with~~ Virginia Department of Transportation standards.

b. In establishing the required cul-de-sac lot frontage configurations, the minimum lot frontage as specified for any given zoning district shall be applied at the front setback line of the cul-de-sac lot.

4. Corner lots

a. ~~Corner lots shall have extra width sufficient for maintenance of required building lines on both streets upon which the corner lot abuts.~~

- b.a. Corner lots shall conform to required building setback lines and Zoning Ordinance requirements.
- e.b. Corner lots at intersections shall be rounded, with a minimum 25-foot radius.

5. Out-parcels

A subdivision shall be designed to preclude any remnant or out-parcel of land below minimum lot size unless such remnant or out-parcel is intended for a specific accessory use or common open space for the subdivision or as otherwise approved by the ~~Administrative Body~~ Designated Agent. ~~Otherwise, out-parcels shall be added to adjacent lots or common open space rather than remain as unbuildable or peculiarly shaped parcels.~~

6. “Flag” lots

Flag lots or “pipestem” lots shall not be permitted.

7. Double frontage and reverse frontage lots

Double frontage or reverse frontage lots shall only be permitted where essential to minimize the frontage of residential lots on arterial streets, to overcome disadvantage of topography, or where exceptional site design permits.

E. MONUMENTS AND CORNERS

1. Monument location and type

- a. Permanent reference monuments shall be placed at all boundary points, points of curvature, points of tangency, points of compound curves, reverse curves, and along tangents at intervals of hundred 660 linear feet per block.
- b. Permanent reference markers shall be constructed using a minimum No. 4 re-bar not less than 28 inches in length set in ~~four (4)~~ four (4) inch by ~~four (4)~~ four (4) inch concrete and shall be placed no less than ~~four (4)~~ four (4) inches, nor more than ~~sixe (6)~~ sixe (6) inches above finished grade.

2. Corner location and type

All lot corners other than those with permanent reference monuments shall be marked with solid metal pins (or pins of a material approved by the Town) of not less than 5/8-inch in diameter and 24 inches long and driven so as to be flush with the finished grade. When rock is encountered, the solid metal monument shall be set and secured in a hole drilled at least ~~e~~ 1/2-inch deep in the rock.

3. Visibility

Upon completion of streets and other public improvements in the subdivision, all reference monuments and pins required shall be clearly visible for inspection and use prior to release of subdivision land.

F. EASEMENT WIDTHS

Minimum easement width shall be delineated on the plat and the width designated as follows, unless otherwise specified by the ~~Administrative Body~~ Designated Agent.

The width of an easement containing a combination of utilities shall be the maximum of the overlay of the combined easements.

1. Water mains and Sanitary sewer: 20 feet
2. ~~Water mains:~~ 15 feet; 20 feet if lines are in excess of 5 feet in depth.
3. Storm sewer: 20 feet
4. Underground telephone, television cable, gas or electric: 10 feet unless otherwise stipulated by applicable utility agency
5. ~~Alleys:~~ 24 feet
6. Stormwater drainage: 20 feet, except that an easement of sufficient width shall be required for the provision of adequate access for maintenance purposes.

G. **STORM DRAINAGE SYSTEMS**

~~All storm drainage systems shall be constructed in accordance with the Virginia Stormwater Management Program (VSMP) regulations, Virginia Stormwater Management Handbook, Berryville's Construction Standards and Specifications Manual, Virginia Department of Transportation requirements, and best practices as determined by the Town Engineer, Director of Community Development, and Director of Public Works. The Town's stormwater management goal is to limit the rate of stormwater run-off from a developed area to that which existed before development occurred. The policies for attaining this goal are more specifically addressed in the adopted "Berryville Area Stormwater Management Facilities Plan." In general, on-site stormwater management structures shall be constructed in conjunction with site development activities. In watersheds where the "Berryville Area Stormwater Management Facilities Plan" has required off-site watershed management measures, a prorata monetary contribution towards such comprehensive drainage improvements shall be substituted for on-site stormwater management. All the provisions of this section shall be enforced unless specifically waived by the Administrative Body Designated Agent.~~

1. Storm drainage facilities - adequacy, size and capacity
 - a. ~~In general, adequate drainage facilities possess the hydraulic characteristics necessary to accommodate the expected flow of stormwater from a given watershed, or portion thereof, for a specified duration and intensity of rainfall.~~
 - a. Adequate drainage should be designed to:
 - b. Remedy any existing conditions which contribute to flooding or other stormwater-related damage;
 - i. account for both off-site and on-site stormwater;
 - ii. honor natural drainage divides;
 - iii. ~~convey said stormwater to a stream, water channel, natural drainage way, or existing facility; and~~
 - iv.iii. discharge said stormwater into the natural drainage way by tying into the drainage way at natural elevations or by

discharging the stormwater into an existing facility of sufficient capacity to receive the same; and

~~v. not to increase flow which would cause more harm than formerly to subservient (downstream) landowners.~~

- c. The determination of the size and capacity of an adequate drainage system shall take into account the planned development in the watershed or affected portions thereof. The design should not adversely affect adjacent or neighboring properties.

2. Basic design criteria

~~The basic design criteria for stormwater management facilities employ the 10-year frequency, 2-hour duration storm to determine pre and post-development flows. Required storage shall be computed using unit hydrograph methods. Emergency spillways shall be designed to withstand the 100-year frequency, 2-hour storm. Hydrographs, spillway design, embankment design and flow computations shall be submitted with the site plan. Where existing flooding problems are known to exist, the Town may require the subdivider to design its stormwater detention facilities for the 100-year storm event.~~

3. General design guidelines

~~Refer to "The Berryville Area Plan: Stormwater Management."~~

4. Drainage construction standards

~~Drainage structures should be constructed in such a manner that they can be maintained at a reasonable cost.~~ To facilitate design, construction, and maintenance, said drainage structures must meet or conform to the Virginia Stormwater Management Handbook and Virginia Department of Transportation standards and include provisions for maintenance.

5. Drainage easements and fencing

Dedicated easements shall be provided for access and maintenance stormwater management facilities. Fencing of storm facilities that retain or detain runoff may be required upon final determination of the Director of Planning Community Development and/or Town Manager Director of Public Works.

6. Off-site stormwater management

~~The most recent state guidelines require that properties and waterways downstream from new development sites be protected from erosion due to increases in the volume, velocity, and peak flow rate of storm runoff. To satisfy these requirements, the following criteria, as a minimum, shall apply:~~

- a. Concentrated storm run-off leaving a development site must be discharged directly into a well-defined, natural or man-made, off-site receiving channel or pipe. If there is no well-defined off-site receiving channel or pipe, one must be constructed to convey stormwater to the nearest adequate channel.
- b. ~~Newly constructed channels shall be adequately designed.~~ An adequate channel shall be defined as a natural or man-made channel or pipe which is capable of conveying the run-off from a 10-year, 2-

hour storm, without over-topping its banks or eroding, after development of the site in question. A receiving channel may also be considered adequate at any point where the total contributing drainage area is at least 100 times greater than the drainage area of the development site in question or if it can be shown that the peak rate of run-off from the site generated by storms to the 10-year, 2-hour storm will not be increased after development.

- c. Run-off rate and channel adequacy must be verified with engineering calculations on standard design forms suitable to the Planning Director/Director of Community Development, Director of Public Works, Town Engineer, and/or Town Manager.
- d. ~~If an existing off-site receiving channel is not an adequate channel, the applicant must choose one of the following options:~~
 - i. ~~Obtain permission from downstream property owners to improve the receiving channel to an adequate condition. Such drainage improvements shall extend downstream until an adequate channel section is reached. (See chapter 5 of the 1980 Virginia Erosion and Sediment Control Handbook.)~~
 - ii. ~~Develop a site design that will not cause the predevelopment peak run-off rate from storms up to the 10-year, 2-hour storm to increase. Such a design may be accomplished by enhancing the infiltration capability of the site or by providing on-site stormwater detention measures. The estimation of pre-development and post-development peak run-off rates must be verified by engineering calculations.~~
 - iii. ~~Provide a combination of channel improvement, stormwater detention, or other measures that are satisfactory to the Town to prevent downstream channel erosion.~~
 - iv. ~~All channel improvements or modifications must comply with all applicable laws and regulations. Modifications to flowing streams should be done in accordance with "Best Management Practices for Hydrologic Modifications," Virginia SWCB Planning Bulletin 319, 1979.~~
 - v. ~~Increased volumes of unconcentrated sheet flows that will cause erosion or sedimentation of adjacent property must be diverted to a stable outlet or detention facility.~~

H. WATER SUPPLY

~~As per Town Code, the Town Council shall have authority over water connections beyond the corporate limits (Annexation Area "B").~~

1. General requirements

~~Standards for water system design, construction and materials for the Town and the Berryville Area, as approved by the Berryville Town Council, shall be followed for all water systems, unless specific deviation thereof is authorized, in writing, by the Town Council. All standards referenced in this section shall refer to the latest revision or revised edition of the referenced material.~~

2. General design guidelines for the water supply
Design guidelines for the water system shall meet Berryville's Construction Standards and Specifications Manual, Virginia Department of Health requirements, and best practices as determined by the Town Engineer, Director of Community Development, and Director of Public Works. ~~As a minimum, the standards set forth in the "Berryville Area Plan: Water and Sewerage Program." The authority for discretionary provisions for water system designs shall rest with the Director of Public Works of the Town of Berryville.~~
3. Materials and construction
All materials and construction shall meet those requirements as specified in the Town of Berryville's ~~"Construction Specifications and Standard Details."~~ Construction Standards and Specifications Manual.
 - a. In cases where there are no Town specifications covering proposed materials to be used by the developer, all such materials shall conform to the latest edition of AWWA specifications or their approved equivalent.
 - b. ~~All construction shall conform to standards approved by the Town. In cases where there are no Town specifications covering construction, all work shall conform to the latest edition of the AWWA specifications or other standard test procedures.~~
4. Minimum test pressure
~~Minimum test pressure for all water lines and appurtenances shall be a minimum of 1.5x working pressure or 150 psi, whichever is greater.~~

I. SEWERAGE FACILITIES

~~As per Town Code, the Town Council shall have authority over sewer connections beyond the corporate limits (Annexation Area "B").~~

1. General requirements
~~Standards for sewer system design, construction, and materials for the Town and the Berryville Area, as approved by the Berryville Town Council, shall be followed for all sewer systems, unless specific deviation thereof is authorized, in writing, by the Town Council. All standards referenced in this section shall refer to the latest revision or revised edition of the referenced material.~~
2. General design guidelines
~~Design guidelines for the water system shall meet Berryville's Construction Standards and Specifications Manual, Virginia Department of Environmental Quality requirements, and best practices as determined by the Town Engineer, Director of Community Development, and Director of Public Works. For information concerning contributing population, design quantities, hydraulic design criteria, and the location of sewers and appurtenances refer to the "Berryville Area Plan: Water and Sewerage Program."~~
3. Materials and construction
~~All materials and construction shall meet those requirements as specified in the Town of Berryville's Construction Standards and Specifications Manual. In cases where there are no Town specifications covering proposed materials~~

~~to be used by the developer, all such materials shall conform to the latest edition of AWWA specifications or their approved equivalent.~~

~~All materials and construction shall meet those requirements as specified in the Town of Berryville's "Construction Specifications and Standard Details." The authority for discretionary provisions for sewer system materials and construction shall rest with the Director of Public Works of the Town of Berryville.~~

~~a. In cases where there are no Town specifications covering proposed materials to be used by the developer, all such material shall conform to the latest edition of the ASTM, ANSI or other applicable specifications and testing procedures.~~

~~b. All construction shall conform with standards approved by the Town. In cases where there are no Town specifications covering construction, all work shall conform to the latest edition of the Virginia Department of Health's Sewerage Regulations.~~

J. FIRE PROTECTION

~~For fire flow requirements refer to "Berryville Area Plan: Water and Sewerage Program."~~

1. Fire hydrant location

~~Where public water is available, the installation of adequate fire hydrants by the developer in a subdivision at locations approved by the Town Council, or its agent, shall be required as necessary to provide adequate fire protection. In the event that sufficient water supply for fire flow is not available, the engineer shall design the development as if sufficient fire flow were available. Refer to the "Berryville Area Plan: Water and Sewerage Program" for additional information regarding fire hydrant locations.~~

2. Fire hydrant installation

~~a. Fire hydrants shall be installed in accordance with the Town's "Construction Specifications and Standard Details." Construction Standards and Specifications Manual.~~

~~b. For locations where fire hydrants are required but not yet ready for installation, the contractor shall install an assembly, which shall be made ready for future hydrant installation when water is made available. The fire hydrant itself shall be delivered to the Town's material yard and stored. The Town will install the hydrant when appropriate.~~

K. FLOODPLAINS

~~The Administrative Body, in the interest of health, safety, and general welfare of the present and future inhabitants of the Berryville Area shall control the subdivision for development of any property that lies in a floodplain in accordance with the following provisions:~~

~~1. Floodplain studies~~

~~a. Floodplain studies shall be prepared for drainage areas exceeding 100 acres. The 100-year rainfall curve shall be used, with a one-foot~~

freeboard easement added to the computed water level. Flood-plain computations shall be performed using the standard-step method or an equivalent method to achieve a balance of energy. Cross-sections, stream profiles, and support calculations shall be submitted.

- b. If a proposed subdivision is situated along a ~~river, stream, or other~~ watercourse that is subject to periodic flooding and has not had a floodplain specifically delineated by the United States Corps of Engineers or the United States Geological Survey, the subdivider shall be required to show the floodplain on the plat of the property to be subdivided. The limits of such floodplain shall be located by a floodplain study prepared by ~~an engineer~~ a professional engineer registered in the Commonwealth of Virginia, in accordance with Title 54.1, Chapter 3 of the Code of Virginia, as amended ~~or by such other qualified person or method as approved by the Administrative Body~~ Designated Agent.

2. Floodplain easement and uses

- a. In a proposed subdivision which includes property within a flood-plain ~~along a stream or other watercourse that is to be left in its natural state~~, the floodplain shall be shown on the plat of the subdivision as a floodplain easement across the lots located in such floodplain.
- b. No use will be permitted in the floodplain easement area that will obstruct the flow of water or alter flood heights in other areas. The floodplain area may be used for utility lines, storm drainage facilities, and other such facilities as are authorized by the adopted Zoning Ordinance, so long as other such uses do not obstruct the flow of water or alter flood heights in other areas.
- c. Land within the floodplain easement area may be designated and used as a public park or recreation area, provided it is dedicated to, and accepted by, a responsible public authority or maintained by a means acceptable to the Town Council.
- d. In determining whether a lot which contains a floodplain easement satisfies the requirements of the adopted Zoning Ordinance with respect to lot size or open space or yard requirements (building setbacks), the area within the floodplain easement may be included if the lot includes a suitable site for a flood-free building (a building in which the lowest floor, including the basement, is above the level of a 100-year flood).

L. SINKHOLES AND KARST FEATURES ~~(07/04)~~

The purpose of this section is to establish review ~~procedures, use limitations~~, design standards and performance standards applicable to land development activities that encompass or affect sinkholes or other karst features in accordance with Virginia Department of Transportation Part II. B., BMP Design Manual of Practice, and the Virginia Stormwater Management Handbook. ~~The intent of this section is to protect the public health, safety and welfare by requiring the development and use of karst~~

~~areas to proceed in a manner that promotes safe and appropriate construction and stormwater management.~~

1. Definitions

- a. Geotechnical Engineer – a Virginia-Registered Professional Engineer (PE) engaged in the practice of Geotechnical Engineering, or a Virginia-Registered Professional Geologist (PG) who is engaged in the practice of Engineering Geology.
- b. Karst feature – karst topography is a landscape created by groundwater dissolving sedimentary rock such as limestone. Features include sinkholes, fissures enlarged by dissolution and caves.
- c. spring – any spring that is depicted on the most recent version of the Virginia Department of Mineral Resources Publication 102, Plate 2, Hydrogeologic Components of Clarke County, Virginia.
- d. stream, intermittent or perennial – any stream that is depicted as intermittent or perennial on the most recent U.S. Geological Survey 71/2 minute topographic quadrangle (scale 1:24,000).

2. Site Review

a. Investigation by a Geotechnical Engineer

Whenever an application for development is filed, the applicant will hire a Geotechnical Engineer to undertake an inspection of the subject area. ~~The PE or PG shall review available geologic and engineering data and air photographs relevant to the site and shall make on-site observations, photographs, and measurements as appropriate. The PE or PG shall provide a written summary of his or her initial findings. A written summary of findings shall be provided to the Town,~~ along with a recommendation to perform a fracture trace analysis, electrical resistivity, cone sounding, core samples, microgravity, and/or other geophysical or intrusive studies as appropriate to determine if the action requested may have a negative impact. The examination for karst features by the engineer shall take place prior to any public hearing process applicable to the parcel in question. ~~The PE or PG will report to the planning staff any findings as to whether there may be significant karst features that apply to the site.~~

~~i. No evidence of karst features. If the PE or PG finds that the site has no evidence of karst features, they shall so indicate in a written report provided to the reviewing body.~~

~~ii. Evidence of karst features. In cases where the PE or PG finds evidence that karst features do exist and which would be impacted by development, electrical resistivity testing, core drilling, microgravity tests or tests as recommended by a PE or PG shall be required within a 100-foot radius of all locations on the property where karst features were identified, and along any linear trend of three or more features. For sinkholes, the 100-foot radius shall be measured from the discernable edge. At the completion of the tests, the applicant shall submit a~~

~~Karst Plan to the Town's Zoning Administrator and follow specific development procedures.~~

~~iii. The presence of karst features on the site which are not impacted. At the discretion of the planning staff, the karst plan may be simplified if the environmental constraint found to be present on the site is not impacted by the proposed site development.~~

b. Karst Plan

A karst plan shall be developed for property identified as having evidence of karst features (i.e., sites upon which sinkholes are fully or partially located and/or which drain to sinkholes). The burden of proof for establishing that there will be no significant impacts shall rest with the applicant. A karst plan shall include the following:

- i. An engineering audit that identifies and maps karst features and the limitations that such features impose on site development. The audit shall include:
 - a) the physical location and limits of the area of sinkhole depressions as determined by field survey and review of pertinent Town, County, and/or State public record, the "Soil Survey of Clarke County" (1982), or the "Map of Selected Hydrogeologic Components of Clarke County, Virginia" (1990), or other reliable sources as may be approved by Town's Zoning Administrator;
 - b) locations of other karst features ~~(fissures enlarged by dissolution and caves);~~
 - c) topographic contours at maximum intervals of two feet, and spot elevations sufficient to determine low points and discernable edges; and
 - d) identification of a one-hundred (100) foot zone from the discernable edge of each sinkhole.
- ii. A plan prepared by a PE to ensure structural stability for principal structures proposed within one-hundred (100) feet of the discernable edge of sinkholes or other karst features. Such plan shall identify tests that will be completed to determine sub-surface conditions.
- iii. The Karst Plan developed for the property shall be reviewed and approved by the Town's Engineer and the Town's Zoning Administrator prior to approval to the development plan or subdivision.

c. Requirements and Restrictions

- i. All sinkholes or other karst features identified prior to construction shall be either mitigated or separated from construction in accordance with Section 317 of the Berryville Zoning Ordinance.

- ii. Sinkholes or karst features identified during construction shall be mitigated in accordance with Virginia Department of Transportation Part II. B., BMP Design Manual of Practice, and the Virginia Stormwater Management Handbook and best practices as determined by the Town Engineer, Director of Community Development, and Director of Public Works. as described in the Virginia Department of Transportation's Location and Design Division Instructional and Informational Memorandum 228 (IIM-LD-228), or other applicable standard as recommended by a PG or PE and approved by the Town's Engineer and the Town's Zoning Administrator.
- iii. Stormwater discharge into a karst feature shall not be increased over its predevelopment rate.
- ~~iv. Stormwater runoff from paved areas or structures shall not directly enter a mitigated sinkhole or other karst features. Stormwater facilities shall be designed to route runoff through approved vegetative filters or other filtration measures before it enters a mitigated sinkhole or other karst features.~~
- ~~v. After necessary testing to determine if sinkholes are present on the location of a proposed stormwater basin, stormwater basins in karst areas shall be lined with either impermeable soil or a synthetic membrane to prevent sudden loss of the contents of the basin into the groundwater due to induced collapse. Where native materials are deemed adequate for the purpose, the Geotechnical Engineer shall verify conditions, establish the required parameters, and monitor placement.~~
- vi.iv. Construction plans shall contain a narrative describing stormwater drainage design, retention, erosion control, and where appropriate, stormwater quality mitigation measures, as these provisions relate to karst features.
- ~~vii.v.~~ vii.v. Underground utilities located within 100 feet of sinkholes and karst features shall be laid out so that they do not intersect those features. Along all such underground utilities, a dike of clay or other suitable material shall be constructed across the trench of the transmission lines and pipelines at intervals of 20 feet or less, or as directed by a PE or PG.
- ~~viii.vi.~~ viii.vi. ~~For any tests requiring boreholes, such as air track drilling, the boreholes must be grouted upon completion. Grouting should be done with a mixture of 50% bentonite and 50% Portland cement.~~
- ~~ix.vii.~~ ix.vii. If air track drilling is used to determine the depth of overburden and continuity of bedrock, then these operations must be monitored full time by a geotechnical engineer to confirm the findings of the driller. For any tests requiring boreholes, such as air track drilling, the boreholes must be grouted upon completion.

~~x. Storage tanks shall have impervious secondary containment. Underground fuel storage tanks shall have interstitial monitoring of tanks and piping systems.~~

~~xi.vii.~~ Where applicable, the following Consumer Disclosure Statement that provides information on what review occurred and what was discovered shall be included in the Deed of Dedication and record plat:

This property is located in an area identified as having karst features. Karst features are created by groundwater dissolving sedimentary rock such as limestone. Features include sinkholes, fissures enlarged by dissolution, and caves. Geologic tests were conducted and one or more of these features were identified on this property. Karst features are unstable and collapse may occur. Measures have been taken to ensure structural stability in this area; however, karst areas are dynamic and geologic changes may cause future structural instability. Fertilizers, herbicides, and pesticides should not be applied within 100 feet of any karst feature, whether it has been mitigated or not.

~~xii.viii.~~ Measures to permanently protect karst features that have not been mitigated shall be identified on the site plan. These measures may include fencing and/or signage.

ARTICLE V. PRELIMINARY AND FINAL PLATS

A. SKETCH PLAN CONFERENCE

- ~~1.~~ 1. Prior to the submission of the preliminary plat, the ~~applicant shall~~ The applicant shall provide sketches, exhibits, or other materials as necessary to adequately describe the proposed subdivision. ~~The~~ and ;
- ~~2.~~ 2. ~~contact the Agent to~~ schedule a sketch plan conference with the ~~Administrative Body~~ Designated Agent. ~~The purpose of the conference is~~ to establish the following:
 - a. Use, scope, type, density, physical characteristics, and phasing of the proposed subdivision
 - b. Coordination of the proposed subdivision with the ~~adopted~~ Berryville Area ~~Master Facilities Plans~~, the ~~capital improvements program~~ Berryville Comprehensive Plan, and plans for development of neighboring properties
 - c. Coordination of transportation improvements with existing and planned streets within the vicinity of the proposed subdivision
 - d. Reasonable regulations and provisions uniquely applicable to the proposed subdivision as related to physiography, public utilities ~~and~~ facilities service, drainage and flood control, ~~transportation~~, environmental and historic impact, economic development, and facilitation of the creation of a convenient, attractive, and harmonious development
- ~~3.~~ 3. ~~The applicant shall provide sketches, exhibits, or other materials as necessary to adequately describe the proposed subdivision.~~
- ~~4.~~ 4.3. ~~The Agent, upon completion of the sketch plan conference, shall identify those comprehensive planning issues, subdivision and site planning considerations, reasonable regulations, and other provisions which are found to be supportive of the purposes of this Ordinance, as well as contributive to the applicant's understanding of the general requirements for subdivision approval.~~ The sketch plan conference does not negate the requirement for the submission of a preliminary subdivision plat, a final plat, or any other provisions of this Ordinance or the Zoning Ordinance.

B. APPLICATION PROCEDURES FOR PRELIMINARY AND FINAL PLATS

No property shall be transferred or offered for sale, nor shall a permit be issued on the basis of an approved preliminary plat.

1. Whenever the owner of any tract of land in the Berryville Area desires to apply to subdivide the same, the applicant shall submit a preliminary plat of the proposed subdivision to the Designated Agent. This plat shall be in compliance with the provisions of this Ordinance and in accordance with the proceedings of the sketch plan conference.
2. The subdivider shall pay a fee when preliminary and final plats are filed. ~~The fee shall be~~ in the form of cash or check, ~~the amount thereof to be determined~~ in accordance with a fee schedule set ~~and adopted by resolution of~~ the Town Council. The fee amount cannot be waived by the Designated Agent.

3. ~~An applicant shall file 15 blue-line or black-line prints of preliminary and final plats with the Agent of the Administrative Body~~Designated Agent. Preliminary and final plats shall be prepared by a professional engineer or land surveyor licensed in the State of Virginia. The plat and other documents comprising an application shall be provided in both digital and print form to the Designated Agent and made available for public viewing in an office designated by the Designated Agent.
4. Preliminary or final subdivision plats that lack any information required by this Ordinance shall be deemed to be incomplete and shall be rejected by the Designated Agent within ten (10) working days of submittal.
5. Upon receipt of the application, the Designated Agent shall act on any proposed plat, site plan, or plan of development ~~submit the request to the Administrative Body~~Designated Agent ~~at its next regular monthly meeting for formal determination of completeness. At the regular meeting of the Administrative Body~~Designated Agent ~~at which the application is formally deemed complete, the Administrative Body shall schedule a public hearing within 60 days by either approving or disapproving the plat in writing, and giving with the latter specific reason therefor. The Designated Agent shall act on any proposed plat, site plan, or plan of development that it has previously disapproved within 45 days after the plat or plan has been modified, corrected, and resubmitted for approval.~~

C. ~~PUBLIC NOTICE AND HEARING REQUIREMENTS FOR PRELIMINARY AND FINAL SUBDIVISION PLATS~~

1. ~~A public hearing shall be held by the Administrative Body on all preliminary and final subdivision applications. At said hearing, all interested persons may appear and state their views.~~
2. ~~Notice by Administrative Body~~
The ~~Administrative Body~~ shall give public notice of a public hearing to consider a proposed subdivision that results in five or more lots or parcels; otherwise, no notice shall be required. Such notice shall be given as required by Section 15.1-431, Code of Virginia, as amended.
3. ~~Notice to abutting owners~~
 - a. ~~At least 15 days preceding the Administrative Body's public hearing, the applicant shall mail written notices of said public hearing to the owner or owners, or their agent, of abutting properties and properties immediately across a street or road from the property sought to be subdivided. Said notices shall state the date, time, and place of the hearing and shall give a brief location and description of the proposed subdivision.~~
 - b. ~~At the public hearing, the applicant shall submit an affidavit that he has fully complied with the requirements of this section as to written notice to abutting landowners.~~
4. ~~Posting of property~~
At least 15 days preceding the ~~Administrative Body's~~ public hearing, the applicant shall erect on the property proposed to be subdivided a sign or signs in such number as are furnished by the Agent, indicating that a subdivision of the property is proposed and stating the date, time, and place of the public hearing.
 - a. ~~The sign or signs shall be erected by the applicant within 10 feet of whatever boundary line of such land abuts a public road and shall be so~~

~~placed as to be clearly visible from the road, with the bottom of the sign not less than 2-1/2 feet above the ground. If more than one such road abuts the property, then a sign shall be erected in the same manner as above for each abutting road. If no public road abuts thereon, then signs shall be erected in the same manner as above on at least two boundaries of the property abutting land not owned by the applicant.~~

~~b. Any sign erected in compliance with this section shall be reasonably maintained from natural hazards until the time of the hearing. The applicant shall not be responsible for the willful destruction or removal of such signs by acts of vandalism. All signs erected under this section shall be removed by the applicant within 15 days following the public hearing for which it was erected.~~

D. AGENCY REVIEW PROCEDURES
FOR PRELIMINARY AND FINAL PLATS

1. Within ~~three~~ five (5) working days from the date the ~~Administrative Body~~ Designated Agent ~~considers the plat to be formally complete, thereceives the officially submitted plat,~~ the Agent shall distribute a copy of the plat to the reviewing agencies for their review and comment on the technical compliance of the plat and its provisions with all applicable standards.
2. The following is a list of reviewing agencies or individuals that may submit comments regarding a proposed subdivision:
 - a. Clarke County Department of Planning
 - b. Town of Berryville Public Works Department
 - c. Berryville Town Manager
 - d. State Fire Marshall
 - e. Virginia Department of Health
 - f. Virginia Department of Transportation
 - g. ~~United States Soil and Conservation Service~~ United States Natural Resources Conservation Service
 - h. Architectural Review Board (where applicable)
 - i. Historic Preservation Commission (where applicable)
3. All agency review and comments shall be completed within 45 calendar days of the agency’s receipt of the preliminary or final plat.
4. The Designated Agent shall provide the applicant with a copy of all agency review comments and recommendations. In cases where modifications in the plat are necessary to satisfy regulations of the various agencies, the applicant shall be so notified in writing within five working days after the Agent receives agency comments.
5. The developer shall respond to all requirements of the reviewing agencies and shall submit any revisions by a date prescribed by the Designated Agent.
6. Nothing contained herein shall obligate the developer to revise the plat to include recommendations of the reviewing agencies. However, the developer shall submit in writing to the Designated Agent, by the revision date, a statement as to the reasons and justification for not incorporating such recommendations into the revised plat.

~~7. At such time as the Agent determines that the plat is in compliance with the requirements of this section, the Agent shall forward the plat, along with the recommendations of reviewing agencies and the Agent's comments and recommendations to the Administrative Body.~~

E. PRELIMINARY PLAT APPROVAL PROCEDURES

1. The ~~Administrative Body~~Designated Agent shall approve or disapprove preliminary plats within ~~60~~45 calendar days from the date that the Agent receives the officially submitted plat. ~~approvals from all state agencies, except that preliminary plats shall be approved or disapproved within 90 days of formal acceptance by the Administrative Body~~Designated Agent.
2. The approval of the preliminary plat by the ~~Administrative Body~~Designated Agent does not guarantee approval of the final plat; neither does preliminary approval constitute acceptance of the subdivision, or public dedications of areas within, by the Town Council, or establish authorization to proceed with construction or improvements within the subdivision.
3. Applicants shall have not more than twelve (12) months after receiving the preliminary plat approval to submit a final plat for a portion or all of the subdivision. Failure to do so shall render the preliminary plat approval null and void. The ~~Administrative Body~~Designated Agent may, upon written request by the subdivider, grant an extension beyond the twelve (12) months. Only one such extension shall be granted for any preliminary subdivision plat.

F. FINAL PLAT APPROVAL AND RECORDATION PROCEDURES

1. The ~~Administrative Body~~Designated Agent shall act to approve or disapprove a final plat within 60 days of submission; however, the final plat shall not be approved until the subdivider has complied with the requirements and standards of design in accordance with this Ordinance.
2. Nothing herein shall require the approval of any subdivision or any part or feature thereof, that shall be found to constitute a nuisance, or to constitute a danger to the public health, safety, or general welfare, or that shall be determined by the ~~Administrative Body~~Designated Agent, or by its Agent, to be a departure from or a violation of sound engineering design or standards.
3. The approval of the final plat by the ~~Administrative Body~~Designated Agent does not constitute acceptance of the public dedications of areas within the subdivision by the Town Council.
4. Approval of the final plat shall be indicated by attaching a certificate of approval from the ~~Administrative Body~~Designated Agent to the final plat. Subdivider must post a performance bond prior to construction to cover the cost of necessary improvements. The bond shall be to the satisfaction of the Town Council, or its Agent if such authority has been so delegated.

5. Approval by the ~~Administrative Body~~Designated Agent of a final plat submitted under the provisions of this Ordinance; shall expire six (6) months after the date of such approval, unless:
 - a. the final plat has been recorded in the Office of the Clerk of the Circuit Court and a subdivision bond acceptable to the Town Council has been posted with the Town.
 - b. an extension has been granted by the ~~Administrative Body~~Designated Agent upon receipt of written request by applicant. Such extension granted shall not exceed a period of six (6) months.
 - c. a major final plat revision has been submitted. Such revision shall be processed in the same manner as originally approved. Minor plat revisions may be processed administratively, based on the review and recommendations of the Agent.
6. The right of a developer to record approved final plats of sections of a subdivision based on the approval of a preliminary plat expires five (5) years from the recordation of the final plat of the first section of the subdivision. This right to record is subject to the full review and approval process in effect at the time each remaining section is to be recorded.

G. APPEAL PROCEDURES

1. An applicant may appeal any adverse decision or failure to act by the ~~Administrative Body~~Designated Agent according to the provisions of Section ~~15.1-475~~15.2-2259 of the Code of Virginia, ~~1950, as amended.~~

H. PRELIMINARY PLAT INFORMATION

~~Preliminary plats shall include the following:~~

1. Preliminary Plat Title Sheet
 - a. Title block
 - i. subdivision or site name;
 - ~~ii. Town of Berryville file number;~~
 - ~~iii.~~ii. name and address of surveying or engineering firm;
 - ~~iv.~~iii. Magisterial District, Town, County, and State;
 - ~~v.~~iv. scale of preliminary plat;
 - ~~vi.~~v. date of preparation; and
 - ~~vii.~~vi. subdivision land use description.
 - b. Fees in accordance with fee schedule
 - c. Surveying and mapping control information
 - d. A vicinity map at a scale of one inch equals not more than two thousand (2000) feet showing the relationship of the proposed subdivision to the adjoining property and the area within one mile radius, Town corporate limits, neighboring subdivisions, and other landmarks, and describing all adjoining roads and their names and numbers
 - e. Sheets comprising the preliminary plat and an index showing the location of the various sheets

- f. A copy of proffers, Special Use Permit conditions, and waivers or variances granted
- g. Seal and signature (on each sheet) by a Virginia registered professional engineer or land surveyor
- h. Title under which the subdivision is proposed to be recorded and the names, addresses, and signatures of the owner(s) and subdivider
- i. Name and address of the individual or firm who prepared the preliminary plat

2. General information on preliminary plats

- a. North arrow, match lines and sheet numbers
- b. Certified boundary survey and topographic mapping with a horizontal scale of one inch equals not more than one hundred feet
- c. Contour intervals of not greater than two feet describing the area covered by the proposed subdivision
- d. Boundary survey of record
- e. Property owners, Town Tax Map and Parcel Number, present zoning and use of the area being subdivided and all abutting or contiguous parcels
- f. Number of lots, total site acreage of each lot, approximate acreage of each lot, approximate dimensions of all lots and approximate right-of-way acreage
- g. Estimated average daily trips and typical street sections
- h. Anticipated water requirements and sewerage flows (gallons per day)
- i. Distance to nearest school or school site
- j. Typical front, side, and rear building setback lines
- k. Holders of any easements affecting the property
- l. Sources of data used in the preliminary plat, including, but not limited to, plats of record and the deed book and page number citation of the last instrument in the chain of title
- m. Location and dimension of proposed streets, rights-of-way, alleys, and lot lines
- n. Location of all pertinent natural and historic features and landmarks
- o. When the subdivision consists of a tract acquired from more than one source of title, the outlines of the various parcels indicated by dashed lines, and identification of the respective parcels
- ~~p. County Tax Map and Parcel Number, zoning classifications, and proposed use for the area being subdivided~~

3. Existing features to be shown on preliminary plats

- a. Existing sanitary sewer, waterlines, fire hydrants and other existing utilities (gas, electric, etc.)
- b. Existing easements showing width and use
- c. Existing stormwater management and BMP locations
- d. Watercourses and their names
- e. 100-year HUD/FEMA floodplain limits

- f. 100-year floodplain boundaries with bearings and distances
 - g. Open spaces, recreation areas and buffer areas
 - h. Location, width and names of all existing or platted streets within or adjacent to the subdivision
 - i. Location of all existing lot lines and total acreage in each use
 - j. Location of all existing buildings within the subdivision
4. Proposed features to be shown on preliminary plats
- a. Proposed travel ways, pedestrian systems and bike trails
 - b. Proposed major drainage structures
 - c. Proposed stormwater management and BMP location(s)
 - d. Location, width and names of all proposed streets to be platted within or adjacent to the subdivision
 - e. ~~Adequate utility~~ Utility and drainage easements
 - f. ~~Satisfactory lot~~ Lot arrangement, design and shape
 - g. Parcels of land and their acreages intended to be dedicated or reserved for public use or to be reserved in deed for the common use of property owners in the subdivision
 - h. Preliminary sketch plans indicating the provisions for utilities, ~~accomplishing the water supply, sewerage disposal, and~~ stormwater management, ~~and preliminary sketch plans for any bridges or culverts that may be required~~
5. Berryville Area Plan recommendations to be shown on preliminary plats
- a. Berryville Area Plan recommendations for the subject property
 - b. Highway Tourism Corridor setbacks and design review applicability
 - c. Historic Design Review applicability
 - d. Additional setbacks reserved in keeping with the Berryville Area Plan
 - e. Dedication of 50 feet right-of-way or greater if required
 - f. Areas presented in the Berryville Area Plan, as adopted, as proposed sites for schools, trails, parks, or other public uses, which are located wholly or in part within the property to be subdivided
 - g. Proposed phasing plan of the subdivision, indicating the location of those land areas and improvements to be sequentially developed and the anticipated timing to achieve the same
 - h. Gross acreages of various physical and environmental-related characteristics shall be graphically identified for every property subject to this Ordinance and shall be computed to the nearest tenth-acre. These shall include, among others, the following:
 - i. Slopes in the fifteen (15) to twenty-five (25) percent range
 - ii. Slopes greater than twenty-five (25) percent
 - iii. Sinkholes
 - iv. Flood plains
 - v. Established drainage channels
 - vi. Flood plain soils
 - vii. Existing water bodies
 - viii. Stormwater management facilities
 - ix. Utilities
 - x. Other sensitive areas defined by the Town or its Agent

- xi. Net developable area
- i. Computation of “net developable acres” as needed to meet zoning requirements. Net developable acreage is the area of a parcel that results following application of “Effective Capacity Ratings” to the parcel’s gross acreage. The effective capacity ratings are ratios establishing the percentage of the physical land unit qualifying for allocable density credit and are as follows:
 - i. Flood plains and established drainage channels 0.0
 - ii. Slopes (15 percent to 25 percent) 0.5
 - iii. Slopes greater than 25 percent 0.1
 - iv. Sinkholes and major outcroppings 0.1
 - v. Public rights-of-way 0.0
 - vi. Public facilities Performance-based
 - vii. Utility easements Performance-based
 - viii. Stormwater retention Performance-based

I. FINAL PLAT AND PLAN INFORMATION REQUIREMENTS

The final subdivision plat and related improvements plan shall be submitted ~~in both digital and print form to the Designated Agent, to the Agent in clearly legible blue or black line copies and shall indicate the following information:~~

- 1. Final plat title sheet
 - a. Title block
 - i. Subdivision or site name (~~must be same as preliminary~~ indicating if it is changed from preliminary plat submission)
 - ~~ii.~~ ii. ~~Town of Berryville file number~~
 - ~~iii.~~ ii. Name and address of surveying or engineering firm
 - ~~iv.~~ iii. Magisterial District, Town, County and State
 - ~~v.~~ iv. Scale of final plat
 - ~~vi.~~ v. Date of preparation of final plat
 - ~~vii.~~ vi. Subdivision land use description
 - b. Fees in accordance with fee schedule.
 - ~~e.~~ a. Surveying and mapping control information. A certified boundary survey with an error of closure within the limit of one foot in ten thousand feet related to the state grid north and showing the location of all permanent reference monuments and their type of material. The survey may be related to the United States Coast and Geodetic Survey, state grid north, if the coordinates of two adjacent corners of the subdivision are shown.
 - ~~d.~~ b. Location of proposed subdivision by an insert map at a scale of not less than one inch equals ~~two thousand~~ (2000) feet, describing thereon north point, adjoining roads ~~and their~~ with names and identifying numbers, city corporate limits, neighboring subdivisions, and other landmarks.
 - ~~e.~~ c. General information section provided, including the number of sheets comprising the preliminary plat and an index showing the location of the various sheets.
 - ~~f.~~ d. A copy of proffers, Special Use Permit conditions and waivers or ~~v.~~ variances granted.

- ~~g.e.~~ Seal and signature (~~on each sheet~~) by a Virginia registered professional engineer or land surveyor on each sheet.
- ~~h.f.~~ Surveyor's certificate.
- ~~i.g.~~ Owner's dedication and consent, properly worded and notarized.
- ~~j.h.~~ Name and address of individual or firm who prepared the final plat.
- ~~k.i.~~ A blank space three inches by three inches shall be reserved for the use of the approving authority.
- ~~l.j.~~ Title under which the subdivision is proposed to be recorded and the names, addresses and signatures of the owner(s) and subdivider.

2. General information to be shown on final plats

- a. North arrow and designation of north orientation used for survey.
- b. An index to multiple sheets (when applicable).
- ~~e.~~ ~~If shown on more than one sheet, match lines shall clearly indicate where the several sheets join and an index shall be shown locating the sheets.~~
- ~~d.c.~~ All final plats of subdivisions shall be prepared at a scale of one inch equals not more than one hundred feet. Letters and figures shall be not less than one-tenth inch in height. The plat sheet or sheets shall not exceed 24 inches by 36 inches.
- ~~e.d.~~ Contour intervals of not greater than two (2) feet.
- ~~e.~~ Parcel and subdivision boundaries with bearings and distances.
- f. All dimensions shown in feet to the nearest one-hundredth foot; all bearings in degrees, minutes and seconds to the nearest second.
- g. Boundary survey of record.
- h. A definite bearing and distance tie shown between not less than two permanent monuments on the exterior boundary of the subdivision and further tie to existing street intersection where possible, ~~and reasonably convenient.~~
- ~~i.a.~~ ~~Parcel and subdivision boundaries with bearings and distances.~~
- ~~j.i.~~ Location of all monuments placed, type of monument set, and positions referenced to Virginia State Plane Coordinates.
- ~~j.~~ County Tax Map and Parcel Number, zoning classifications and proposed use for the area being subdivided. Property owners, County tax map and parcel number, deed book and page citation, present zoning and use of all contiguous parcels.
- k.
- l. Number of lots as proposed by the subdivider.
- m. Numbers and areas of all building sites.
- n. Total site acreage.
- o. The name and number of section, if part of a larger tract.
- ~~p.~~ ~~Right of way acreage.~~
- ~~q.p.~~ Area of each new parcel (in acres or square feet).

- f.g. Separate parcels or units shall be individually identified with a separate and sequential number (Address numbers or alpha identifiers shall not be used to identify parcels or units.) Blocks shall also be identified.
- ~~s.r. Property owners, County tax map and parcel number, deed book and page citation, present zoning and use of all contiguous parcels.~~
- t.s. Holders of any easements affecting the property.
- u.t. When the subdivision consists of a tract acquired from more than one source of title, the outlines of the various parcels shall be indicated by dashed lines, and identification of the respective parcels shall be placed on the preliminary plat.
- v.u. Estimate of daily vehicle trips generated by the site.
- w.v. Typical roadway and parking area pavement and design section.
- x.w. Distance to the nearest school or school site.
- y.x. The front, side, and rear building setback lines.
- z.y. Street right-of-way boundaries with bearings and distances.
- aa.z. Location of all pertinent natural and historic features and landmarks.
- bb.aa. All curve data in a complete curve table.
- ee. Sources of data used in the final plat, including, but not limited to, plats of record and the deed book and page number citation of the last instruments in the chain of title.
- ~~dd.~~ Certificate signed by the surveyor or engineer setting forth the source of title of the owners of the land subdivided and the places of record of the last instrument in the chain of title.
- ee.bb. A statement that “The division of the land described herein is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any, and shall be signed and duly acknowledged before the Town office authorized to take acknowledgement of deeds. All statements affixed to this plat are true and correct to the best of my knowledge.”
- ff.cc. Additional information specific to proposed use as deemed necessary by the Agent for adequate subdivision plat and improvements review.
- gg.dd. All applicable notes.

3. Existing features to be shown on final plat
 - a. Existing sanitary sewer, waterlines, fire hydrants and other existing utilities (gas, electric, etc.).
 - b. Existing storm drainage systems. Existing stormwater management and BMP locations.
 - ~~b.c.~~
 - e.d. Existing easements showing width and use.
 - ~~d.~~ Existing stormwater management and BMP locations.
 - e. Watercourses and their names.
 - f. HUD/FEMA 100-year floodplain limits and the source of the floodplain information shall be delineated where applicable.
 - g. Open spaces, recreation areas and buffer areas.

- h. Location, width and names (or route numbers) of all existing or platted streets within or adjacent to the subdivision. including center line and right-of-way.
 - i. Parks and school sites or other public areas.
 - j. Vacated streets or parcels showing areas vacated and area amounts reverted to adjacent parcels
 - k. ~~All existing streets adjacent to or providing access to the subdivision, including center line and right-of-way.~~
 - l. Location of all existing land lot lines and total acreage in each land use.
 - m. Location of all existing buildings within the subdivision.
4. Proposed features to be shown on final plat
- a. Proposed travel ways, pedestrian systems, and bike trails
 - b. ~~Proposed major drainage structures.~~ and
 - e.b. ~~Proposed stormwater management and BMP location(s).~~
 - e.c. Location, width, and names of all proposed streets to be platted within or adjacent to the subdivision.
 - e.d. ~~Adequate utility~~ Utility and drainage easements.
 - f. ~~Satisfactory lot~~ Lot arrangement, design, and shape. ~~and~~
 - g.e. ~~Area~~ of each lot shown within the parcel.
-
- h.f. Compatibility with the preliminary sketch plans indicating the provisions for all utilities, including but not limited to, the proposed method of accomplishing water supply, sewage disposal, stormwater management, and preliminary sketch plans for any bridges or culverts that may be required shall be submitted.
 - i.g. Proposed finished grading by contours, to be supplemented where necessary by spot elevations.
 - j.h. A geotechnical report prepared by, or under the direction of, a professional engineer experienced in soil and foundation engineering shall be submitted for subdivisions located in areas where special soil or water conditions are deemed by the Town to be potentially injurious.
 - k.i. Location and method of garbage and refuse collection.
 - l.j. ~~Streets shall be named but shall not duplicate existing or platted street names unless the new street is a continuation of an existing or platted street.~~ All dimensions, both linear and angular, for the location of lots, streets, alleys, public easements, and private easements shall be given. The linear dimensions shall be expressed in feet to the nearest one-hundredth-foot, and all angular measurements shall be expressed by bearings or angles expressed to the nearest ten seconds. All curves shall be defined by their radius, central angle, tangent, distances, tangent bearing, and arc lengths. Such curve data shall be expressed by a curve being tabulated and numbered to correspond with the respective numbered curve shown throughout the plat.
 - m. ~~Centerline and right-of-way for proposed roadways.~~

- n.k. Plans and profiles for all public streets, including center line elevations computed to nearest one-hundredth at fifty horizontal station intervals and at other locations of geometric importance.
- ~~o.~~ ~~Ingress-egress easements.~~
- p.l. All off-street parking, related driveways, entrance types, loading spaces, and walkways, indicating type and dimensioning of surfacing, size, stalls, width of aisles, and a specific schedule showing the number of parking spaces provided and the number required by the provisions of the Zoning Ordinance.
- q.m. Location and method of lighting provisions for private driveways, streets, and parking areas.
- r.n. Plans of contributing drainage area and the computed limits of the 100-year floodplain, with drainage way cross-sections and water surface elevations plotted on profile of the pre- and post- development conditions, ~~where required by the Director of Planning and/or Town Manager.~~
- s.o. Plans and profiles detailing the provisions for the adequate disposition ~~of of natural and~~ stormwater ~~in accordance with adopted Town Design and Construction Standards~~, indicating the location, size, type, and grade of ditches, catch basins, and pipes and connections to existing drainage system, and on-site pipes and connections to existing drainage system, and on-site stormwater retention where deemed appropriate and necessary ~~to the Town~~, and with supporting contributing area and design computations as may be required.
- t.p. Provisions for the adequate control of erosion and sedimentation, ~~indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading, and construction, as required by the Town Erosion and Sediment Control Ordinance and design standards of the United States Soil Conservation Service in conformance with the Virginia Stormwater Management Handbook.~~
- u.q. Location, width and names of all proposed rights-of-way and easements, other than streets, within and adjacent to the subdivision.
- v.r. ~~Geometric location data and areas for all private or public rights-of-way, common areas, utility center lines and easements, structures, and lot lines.~~
- w.s. Plans and profiles detailing all existing and proposed utilities, including water and sanitary sewer facilities, indicating all pipe sizes, types, and grades, with supporting capacity calculations and where connection is to be made to the Town or to other utility system.
- ~~x.~~ ~~Right of way dedication.~~
- y.t. If any land is being dedicated or reserved for streets, right-of-way, easements, parking spacese, or for the common use of future property owners of the subdivision, the Record Plat shall so state and indicate which.
- ~~z.~~ ~~Areas to be dedicated must be labeled as such.~~

- ~~aa-ii.~~ Locations for all open spaces, identifying areas for and improvements to all recreation facilities, tot lots, natural areas, and related pedestrian accommodations.
- ~~bb.~~ ~~Area of new dedicated street right of way (in acres or square feet).~~
- ~~ee-v.~~ Sufficient information to show how the physical improvements associated with the proposed subdivisions are compatible with existing or proposed development of record on adjacent properties, which may include schematic plans for stormwater management, sanitary sewer, water supply, and future transportation improvements.
- ~~dd.~~ ~~Location and dimension of proposed streets, rights-of-way, alleys, and lot and building lines.~~
- ~~w.~~ ~~Asphalt restoration standard for roadways~~

5. Berryville Area Plan recommendations to be shown on final plats

- a. Berryville Area Plan recommendations for the subject property.
- b. Highway Tourism Corridor setbacks and design review applicability.
- c. Historic Design Review applicability.
- d. Additional setbacks reserved in keeping with the Berryville Area Plan.
- e. Dedication of 50-foot right-of-way, or greater if required.
- f. Areas presented in the Berryville Area Plan, as adopted, as proposed sites for schools, trails, parks, or other public uses, which are located wholly or in part within the property to be subdivided.
- g. Proposed phasing plan of the subdivision, indicating the location of those land areas and improvements to be sequentially developed, and the anticipated timing to achieve the same.
- h. Gross acreage of ~~various~~ physical and environmental-related characteristics shall be graphically identified for every property subject to this Article and shall be computed to the nearest tenth-acre. These shall include, among others, the following:
 - i. Slopes in the 15 to 25 percent range
 - ii. Slopes greater than 25 percent
 - iii. Areas of geologic rock outcroppings
 - iv. Sinkholes
 - v. Floodplains
 - vi. Established drainage channels
 - vii. Floodplain soils
 - viii. Existing water bodies
 - ix. Stormwater management facilities
 - x. Utilities
 - xi. Other sensitive areas defined by the Town or its Agent
 - xii. Net developable area
- i. Computation of “net developable acres” as needed to meet zoning requirements

i.	Floodplains and established drainage channels	0.0
ii.	Slopes (15 to 25 percent)	0.5
iii.	Slopes greater than 25 percent	0.1
iv.	Sinkholes and major outcroppings	0.1

- v. Public facilities performance-based
 - vi. Utility easements performance-based
 - vii. Stormwater retention performance-based
6. A special note shall appear on any final plat of subdivision or any plat of condominium that property owners are liable for the maintenance of stormwater improvements and common areas.

ARTICLE VI. SUBDIVISION LOT GRADING REQUIREMENTS AND PLANS

A. INTRODUCTION

The subdivision lot grading plan is intended to assure and promote consistency between the individual lot development process and the overall subdivision site improvement process as governed by the final plat and plans. Further, it is used to check the final grading and drainage on a given lot prior to the issuance of the occupancy permit. The occupancy permit will be refused if the plan and the on-site grading do not substantially agree, unless such deviation has been approved by the Town Engineer, Community Development Director, and Public Works Director. Subdivision lot grading plans may be incorporated into the final plat and plans when these documents are submitted for approval. However, in no case shall a building permit be approved prior to submission and approval of the lot grading plan.

B. LOT GRADING REQUIREMENTS

It shall be the responsibility of the developer and his contractor to perform all earth work necessary to accomplish not less than 95 percent of the final grade contours.

1. Lot, drive, and parking pad grades

To assure adequate overall drainage, the minimum lot grade ~~should be~~ two percent. Any swales on a lot must be at a minimum two percent slope, but ~~preferably~~ should be at three percent. On single-family subdivision lots, a driveway parking pad shall be installed to accommodate the off-street parking requirement. This parking pad ~~should be~~ to be at a grade no greater than five percent and no less than one percent. The drive connecting the street to the parking pad ~~should be~~ to be on a grade of no more than fifteen percent and no less than one percent. ~~A waiver request shall accompany any plans that do not conform to these driveway standards.~~

2. Drainage swales and pipes

- a. ~~Subdivision lot~~ grading plans ~~for subdivision houses~~ shall be so designed that if stormwater run-off is collected in a mid-block swale along ~~the~~ rear yards and routed toward the street in an open swale between two adjacent houses, the maximum allowable watershed for such a surface swale ~~passing between two adjacent houses~~ shall be one acre with the average (C x A) factor not to exceed 0.50.
- b. In cases where ~~exhaustive~~ hydraulic analysis indicates that natural drainage swales between houses are insufficient to route stormwater, an underground piped system shall be developed ~~as an alternative~~.

3. Erosion controls

- a. Erosion controls are required for all areas on a lot where the ground will be disturbed. ~~The original subdivision erosion controls may suffice if satisfactory for those areas for which they are intended to serve.~~
- b. Erosion controls shall not be removed, nor the erosion control bond escrow released, until all the construction on the lot is completed and the ground cover has been stabilized.

4. Ditches in single-family detached dwelling developments

Paved, concrete, or riprap ditches shall be discouraged in single-family detached dwelling unit developments.

5. Earth coverage of underground utilities
~~At the completion of the earth grading, all utility services shall be left with sufficient cover and depth to serve the respective lot needs.~~

C. LOT GRADING PLANS ~~(11/04)~~

~~Three~~ Digital and physical copies of the subdivision lot grading plan must be submitted to and approved by the Community Development Director, Town Engineer, Director of Public Works, and Town Erosion and Sediment Control Administrator ~~Director of Planning/Town Manager~~ prior to the issuance of a building permit.

1. Plan specifications

~~The lot grading plan shall be prepared on a sheet not to exceed 8.5 inches by 14 inches.~~ The subdivision name, lot number of record, lot area, and boundary data and adjoining lot numbers and street names shall be indicated.

2. Scale

Subdivision lot grading plans shall be to scale of one inch is equal to 30 feet, or greater, on all lots.

3. Revisions

- a. Minor Revisions: Minor revisions to an approved lot grading plan may be approved by the Zoning Administrator. Minor revisions may be requested by submitting a description of the proposed minor revisions in letter form. Once approved, these revisions become a part of the approved lot grading plan.

- b. Major Revisions: ~~Major revisions to an approved lot grading plan shall require submittal of a revised lot grading plan, meeting the requirements of this Section B, for approval by the Zoning Administrator.~~

- i. Major revisions to an approved lot grading plan ~~shall~~ include changes to a structure's floor elevations, including basement floor elevations of more than six (6) inches; addition or removal of a basement level; ~~removal of a basement level~~; additions to or removal of portions of a structure; ~~removal of portions of a structure~~; change to the drainage pattern of a lot; changes which affect the ground elevation at the property line; and changes which affect the grading or construction of adjacent lots.

- ii. ~~Major revisions to an approved lot grading plan shall require submittal of a revised lot grading plan, meeting the requirements of this Section B, for approval by the Zoning Administrator.~~

- c. Determination: The determination as to whatever proposed revisions to an approved lot grading plan are minor or major shall be made by the Zoning Administrator.

- d. The cost of review of revisions by the Town's engineer shall be paid by the applicant.

4. Certification of grading plans

Plans and specifications shall be prepared and certified by a professional engineer registered in the Commonwealth of Virginia, in accordance with Title 54.1, Chapter 3 of the Code of Virginia, as amended. All regulations, standards, and established best practices as determined by Town Engineer and Director of Public Works must be applied. Lot grading plans shall be certified by an

~~engineer, architect, surveyor, or landscape architect registered and authorized by the state to practice as such.~~

5. Items to be shown on grading plans

The following items shall be included on the lot grading plan for each lot:

- a. All physical improvements on the lot shall be graphically indicated. Spot elevations are required to be shown at all house entrances, at the driveway entrance, and at all changes in grade of the driveway. Spot elevations shall be shown at each corner of the house. Walkout basements shall be indicated on the plans, showing the entrance and the appropriate spot elevations.
- b. The lead walk and all risers must be shown on the plan, and the elevation of the risers must be specified.
- c. All existing water, storm drainage, sanitary sewer, and other utility connections and easements shall be indicated. Utility connection points to the lot shall be indicated. Existing drainage easements must be honored and additional easements provided; for all areas of concentrated flow in lot grading plans and subdivision plans. These areas include ~~natural drainage ways (swales)~~swales concentrating flow from several lots, swales leading into culverts, and those stabilized existing drainage ways handling the outfall of other drainage structures.
- d. To ensure the maintenance of the original intent for subdivision stormwater management, lot grading plans should either delineate the drainage divide within the applicable area of the subdivision, or a notation by the engineer on the lot grading plan to the effect that it conforms to the approved overall drainage plan for the subdivision.
- e. Where no curb and gutter street section is planned or exists, minimum size allowed for a driveway culvert is 12 inches, and the inverts for the pipe must be shown. In any case, culvert computations must be submitted.
- f. Other items deemed applicable by the Zoning Administrator.

6. Violation of Lot Grading Plan

- a. Any construction or grading which varies from the approved grading plan and which would have required approval of a minor revision under ~~Section B.3.a., above,~~ shall be subject to a fine of \$500.00, subject to court adjudication in compliance with VA Code §15.2-2209 and § 18.2-11.
- b. Any construction or grading which varies from the approved grading plan and which would have required approval of a revised lot grading plan as a major revision ~~under Section B.3.b., above,~~ shall be subject to a fine of \$2,500.00, subject to court adjudication in compliance with VA Code §15.2-2209 and § 18.2-11.
- c. In addition to the aforesaid fines, any construction or grading in violation of an approved lot grading plan shall be subject to the regulations as set forth in Article VIII, ~~Section D,~~ of this Ordinance.

ARTICLE VII. PERFORMANCE SURETY

In order to obtain guarantee of performance to assure timely completion and competent construction of subdivision physical improvements, the applicant is required to post a bond or other acceptable surety.

A. GENERAL

Prior to approval of a final subdivision plat, the owner shall furnish to the Town a cashier's check, cash escrow, bond, or letter of credit, in accordance with the provisions of Section 15.2-2241~~(5)~~, Code of Virginia, conditioned upon the timely and proper construction of all physical improvements required as a condition of the approval of the final subdivision plat. The amount of such cashier's check, cash escrow, bond, or letter of credit shall not be less than the estimated cost of such construction based on unit prices, plus ~~twenty-five (25)~~ 25 percent for inflation, potential damage to existing roads or utilities, and administrative costs, including, without limitation, costs incurred by the Town for cost estimates and other expenses in the event the construction is not timely or properly performed.

B. CONSTRUCTION AND BONDING AGREEMENT

The ~~Town Council~~ Designated Agent may adopt the form of a construction and bonding agreement for public improvements pursuant to this Ordinance.

C. MAINTENANCE BOND

Under Va Code §15.2-2241, ~~t~~The developer, at the completion and request for acceptance of the improvements by the Town, shall first furnish a bond acceptable to the Town in the amount of ten percent of the total cost of construction of the subdivision improvements. Said bond is to be furnished solely as a guarantee against faulty materials and workmanship and shall remain in force for a minimum of one year following the date of acceptance of the improvements by the Town.

VIII. VIOLATIONS, PENALTIES, AND LEGAL REMEDIES

A. TRANSFER OF LAND BEFORE FINAL PLAT APPROVAL

In accordance with the Code of Virginia governing penalties for misdemeanors Any person who sells or transfers any land of a subdivision before such plat has been duly approved and recorded as provided herein shall be subject to a fine, as provided by law, for each lot or parcel of land so subdivided, transferred, or sold; and otherwise ~~in accordance with the Code of Virginia governing penalties for misdemeanors.~~

B. VIOLATIONS, CUMULATIVE FINES

Any person, whether owner, lessee, principal, agent, employee, or otherwise, who violates any of the provisions of this Ordinance, or permits any such violation, or fails to comply with any of the requirements hereof, or who subdivides any land, constructs and makes improvements, erects any building, or uses any land in violation of any preliminary or final subdivision plat or plan submitted ~~by him~~ and approved under the provisions of this Ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to punishment as provided by law. Each lot that constitutes a violation and each day that a violation continues shall be deemed a separate offense, subject to cumulative fines and other penalties.

C. UNLAWFUL ACTS

Any building erected or improvements constructed contrary to any of the provisions of this Ordinance and any use of any building or land which is constructed, operated, or maintained contrary to any of the provisions of this Ordinance ~~shall be and the same~~ is hereby declared to be unlawful.

D. INJUNCTIONS, NOTICE OF VIOLATION

1. The Town may initiate an injunction, mandamus, or any other appropriate action to prevent, enjoin, abate, or remove such erection or use in violation of any provision of this Ordinance. Such action may also be instituted by any citizen- person(s) with demonstrated legal standing who may be aggrieved or particularly damaged by any violation of any provision-s of the Ordinance.
2. Upon its becoming aware of any violation of any provisions of this Ordinance, the Town shall serve notice of such violation on the person committing or permitting the same, and if such violation has not ceased within such reasonable time as the Town has specified in such notice, it shall institute such action as may be necessary to terminate the violation.

E. REMEDIES ARE CUMULATIVE

The remedies provided for in this section are cumulative and not exclusive and shall be in addition to any other remedies provided by the law, including Va Code §15.2-2240.

ARTICLE IX. DEFINITIONS

Definitions found in §15.2-2201 of Virginia Code, Virginia Department of Transportation Road and Bridge Standards, and Virginia Department of Environmental Quality Stormwater Management Handbook are adopted by reference.

alley - A service way providing a secondary means of public access to abutting property and not intended for general traffic circulation.

Area B - That land which is in Clarke County, contiguous to the Town of Berryville and described in Attachment “B” of the Clarke County/Town of Berryville Annexation Agreement.

Berryville Area - That land that lies within Area B and that lies within the corporate boundaries of the Town of Berryville.

Berryville Area Plan - The comprehensive planning document for Area B and sub-areas within the Town of Berryville.

Berryville Comprehensive Plan - The Comprehensive Plan as adopted by the Town of Berryville ~~in January, 1976.~~

block - A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

buffer - A strip of land established to protect one type of land use from another with which it is incompatible.

building setback line - An imaginary line beyond which a building ~~shall not~~ extend (excluding uncovered steps), that is fixed at a specific distance from the front, side, or rear boundaries of a lot.

catch basin - An inlet designed to intercept and redirect surface waters.

cluster - A development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

Commission - The Planning Commission of the Town of Berryville, Virginia.

Comprehensive Plan - See **Berryville Comprehensive Plan**.

condominium - A building, or group of buildings, in which units are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

Definitions

covenant - A private agreement between the buyer and seller of real estate, which is normally contained in the property deed or otherwise formally recorded, and which asserts legal requirements on the use of that real estate.

~~**eul-de-sac**—A street with only one outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.~~

dedication - Under subdivision regulations, the transfer of property from private to public ownership.

density - Number of dwelling units per unit of land area.

Designated Agent-The agent employed or authorized by the Town Council to review and act on subdivision plats, site plans, and plans of development. Also the Subdivision Agent under VA Code 15.2-2252, and generally the Director of Community Development.

detention basin (pond) - A storage facility for the temporary storage of stormwater run-off.

developer - The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests in such land.

development - The division of a parcel of land into two or more parcels; or the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure.

Director of ~~Planning~~ Community Development- The Town Planner of Berryville or other agent, as designated by the Berryville Town Council.

drainage easement or drainage right-of-way - Assignable rights-of-way across land to provide for the alignment and maintenance of a drainage course, installation of drainage facilities, enlargement of existing drainage ways, installation of stormwater sewers, or drainage ditches, and/or required for the preservation or maintenance of a natural stream or watercourse or other drainage facility, or for similar or related storm drainage purposes.

drainage structures - pipes, swales, natural features, and man-made improvements designed to carry drainage.

drainageway - any natural or artificial watercourse, trench, ditch, swale, or similar depression into which surface water flows.

easement - a grant by a property owner to another party for the use of, non-use of, or limited use of land for a specific purpose on a repeating or continuous basis.

~~**easement, drainage**—an easement required for the installation of stormwater sewers or drainage ditches, and/or required for the preservation or maintenance of a natural stream or watercourse or other drainage facility.~~

~~egress—an exit.~~

engineer - an engineer licensed by the Commonwealth of Virginia pursuant to §54.1-400 et seq.

flood, 100-year - the highest level of flooding that, based upon an analysis of past floods, is likely to occur once in every 100 years.

floodplain - the channel and the relatively flat area adjoining the channel of a natural stream or river which has been or may be covered by floodwater and is indicated as such on FEMA FIRM maps.

Geotechnical Engineer – a Virginia-Registered Professional Engineer (PE) engaged in the practice of Geotechnical Engineering, or a Virginia-Registered Professional Geologist (PG) who is engaged in the practice of Engineering Geology. ~~(7/04)~~

~~highway engineer—the Resident Engineer employed by the Virginia Department of Highways and Transportation.~~

~~homeowners association—a community association, other than a condominium association, which is organized in a development in which individual owners share common interests and responsibilities in and for open space or facilities within a designated area.~~

improvement - streets, sidewalks, curbs, gutters, water mains, drainage facilities, landscaping, recreational facilities, and all other such betterment as may be required under the provisions of this Ordinance.

~~ingress—access or entry.~~

~~karst feature—karst topography is a landscape created by groundwater dissolving sedimentary rock such as limestone. Features include sinkholes, fissures enlarged by dissolution and caves. (7/04)~~

landscaping - changing, rearranging, or adding to the original vegetation or scenery of a piece of land to produce an aesthetic effect appropriate for the use to which the land is put. It may include reshaping the land by moving the earth, as well as preserving the original vegetation or adding vegetation.

lot - a designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed, or built upon as a unit.

lot, double-frontage -~~See lot, through.~~

lot, through—a lot which fronts on two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

Definitions

lot, width of - the horizontal distance between the side lot lines, measured along the building setback line.

net developable area - the estimated net portion of a land area which can be developed, minus the restrictions imposed by floodplains, drainage channels, slopes, sinkholes, certain soil types, and rock outcroppings.

off-site - pertaining to areas and/or functions not included within the boundaries of a subdivision or proposed subdivision.

off-street parking space - a temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right-of-way.

open space - any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment of owners and occupants of land adjoining or neighboring such open space.

parking aisle - the traveled way by which cars enter and depart parking spaces.

performance bond - any security that meets state-form requirements of VA §15.2-2241(7) and §15.2-2261 ~~may be accepted by a municipality~~ as guarantee that improvements required as a part of an application for development are satisfactorily completed.

plan - the map or plat illustrating or describing a subdivision or land development.

plat - a map, generally of a subdivision, showing the location, boundaries, and ownership of individual properties.

plat, final - the final map of all or a portion of a subdivision or site plan which is presented to the proper review authority for final approval.

plat, preliminary - a map of a proposed land subdivision showing the character and proposed layout of the tract in conformance with the regulations set forth in this Ordinance to indicate the suitability of the proposed subdivision land.

plat, record - a final map of all or a portion of a subdivision which, when approved, shall meet all the applicable requirements of this Ordinance and shall be in a form suitable for recording.

private street - a way which is intended to afford the principal means of access to abutting lots and is not owned or controlled by a government entity, under VA §15.2-2265.

prorata - according to a calculated share.

~~**Resident Engineer** - the Resident Engineer of the Virginia Department of Highways and Transportation assigned to Clarke County, or his designee.~~

Definitions

right-of-way - a strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation, and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission line, oil or gas pipeline, waterline, sanitary storm sewer, and other similar use.

road - see **street**.

screening - a method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

solar access - the availability of direct sunlight to land and buildings and in particular to solar collection systems.

spring – any spring that is depicted on the most recent version of the Virginia Department of Mineral Resources Publication 102, Plate 2, Hydrogeologic Components of Clarke County, Virginia. (7/04)

storm sewer - a conduit that collects and transports run-off.

stream, intermittent or perennial – any stream that is depicted as intermittent or perennial on the most recent ~~U.S. Geological Survey 7 1/2 minute topographic quadrangle (scale 1:24,000).~~ (7/04) Virginia Department of Conservation and Recreation Perennial Stream Viewer.

street - the principal means of public access to any lot in a subdivision. The term “street” shall include road, drive, place, avenue, highway, boulevard, or any other thoroughfare for a similar purpose, but shall not include any private access easement.

service road or drive - a public right-of-way generally parallel and contiguous to a major highway, primarily designated to ~~promote safety by eliminating promiscuous ingress and egress to the right-of-way and by providing safe~~ provide limited and orderly points of access to the highway.

subdivide - to ~~voluntarily~~ divide any tract, parcel, or lot of land into two or more parts for the purposes of sale, development, or lease in a manner consistent with the requirements of this Ordinance.

subdivider - any person, persons, firm, corporation, partnership, or other entity, and the agent or agents thereof, subdividing or proposing to subdivide land as herein defined.

subdivision - the process (and the result) of dividing a property or parcel of land into smaller individual parcels, lots or buildable sites.

surety bond - See **performance bond**.

swale - a depression in the ground which channels run-off.

Definitions

Town - the Town Council of Berryville, Virginia, or its designated staff or appointees.

Town Manager - the Town Manager of Berryville, Virginia.

tract - an area, parcel, site, piece of land, or property which is the subject of a development application.

watershed - a basin in which all surface water drains to a centrally located stream, river, or other body of water.

Zoning Administrator - the Zoning Administrator of the Town of Berryville, Virginia.

Zoning Ordinance - the Zoning Ordinance of the Town of Berryville, Virginia.

ARTICLE X. FEES

A. PAYMENT OF A FEE REQUIRED

The developer shall pay a fee to the Town of Berryville for the examination and approval or disapproval of preliminary or final plats and improvement plans submitted pursuant to this Ordinance.

B. FEE SCHEDULE

A schedule of fees for the examination and approval of preliminary and final subdivision plats and the inspection of all required improvements shall be determined by Town Council resolution, which schedule may be changed from time to time. Before the submittal of any subdivision plat, such fee shall be made payable to the Town of Berryville.

C. DEPOSIT FOR CONSULTING SERVICES

In addition to the fee, the applicant shall provide the Town Council with a deposit in an amount the ~~Administrative Body~~Designated Agent, after consultation with staff, deems sufficient to cover any expenses connected with review of preliminary or final subdivision plats and improvement plans. The Town Council is authorized to retain a registered professional consultant to advise the ~~Administrative Body~~Designated Agent on any or all aspects of subdivision plats and improvement plans. The costs of this service shall be borne by the applicant. Any unexpended funds shall be returned to the applicant when the ~~Administrative Body~~Designated Agent makes a final decision.

Designated Agent – The agent employed or authorized by the Town Council to review and act on subdivision plats, site plans, and plans of development

development - The process of erecting, or causing to be erected, buildings or structures on a lot.

district - A portion of the Town of Berryville within which, on a uniform basis, only certain uses of land and buildings are permitted as set forth in this Ordinance, and within which certain lot areas and other uniform requirements are established.

5/13 **donation drop-off box** - Any container, storage unit, or unoccupied structure, used for the holding of donated items by the general public, including but not limited to clothing, toys, and books, with the collection of donated items made at a later date or time. This term shall not include recycling collection centers.

driveway - A space or area providing access specifically designated and reserved on a lot for the movement of vehicles from one lot to another or from a lot to a public street.

duplex - A two-family residential structure, with each unit having its own exterior entrance and its own kitchen and bath facilities; the residential units may be arranged one above the other, or be semi-detached.

dwelling - A building or portion thereof which is used or intended to be used exclusively for residential purposes and contains one or more dwelling units. A dwelling shall be constructed in accordance with the Clarke County Building Code.

dwelling, attached - A dwelling having any portion of each of two walls in common with adjoining dwellings.

dwelling, detached - A dwelling that is entirely freestanding on the same lot.

dwelling, multi-family - A structure originally arranged or designed to be composed of three or more dwelling units (an apartment house), with the number of families in residence not exceeding the number of dwelling units provided.

dwelling, semi-detached - One of two buildings, arranged or designed as dwellings, located on abutting walls without openings and with each building having a separate lot.

11/10 **dwelling, single-family** - A residential dwelling unit other than a mobile home, designed for and occupied by one family. This term shall include group homes, family day homes or assisted living facility (as defined in § 15.2-2291 Code of Virginia, 1950, as amended).

dwelling, temporary - A portable dwelling not necessarily attached to a permanent foundation. These units shall be used only as specified herein.

Section 205 Limited Industrial (I) District

- (t) Public utility generating, booster, or relay stations, transformer sub-stations, transmission lines and towers, and other facilities for the provision and maintenance of public utilities, including railroads and facilities, and water and sewerage installations.
- (u) Signs as set forth in Section 307.
- (v) Fences as set forth in Section 303.
- (w) Accessory uses that are incidental to the principal use.
- (x) Temporary trailers as set forth in Section 205.7.

205.2 REQUIREMENTS FOR PERMITTED USES

- (a) Before a building permit shall be issued or construction commenced on any permitted use in this district, or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, shall be submitted to the Zoning Administrator for study. ~~The Administrator shall refer these plans to the Planning Commission for their recommendation.~~ Modifications of the plans may be required. Such plans shall comply with Section 314.
- (b) Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid masonry wall, a uniformly painted solid board fence, or evergreen hedge six (6) feet in height. Public utilities and signs requiring natural air circulation, an unobstructed view, or other technical consideration necessary for proper operation may be exempt from this provision. This exception does not include storing of any materials.
- (c) The ~~Planning Commission~~ Zoning Administrator may require landscaping within any established or required front setback area. The plans and execution must take into consideration traffic circulation. Landscaping may be permitted up to a height of three (3) feet, and to within fifty (50) feet from the corner of any intersecting streets.
- (d) Sufficient area shall be provided to adequately screen permitted uses from adjacent business and residential districts. Areas for off-street parking, which shall be in accordance with the provisions set forth in Section 305, shall also be provided.
- (e) The Administrator shall act on any application received within thirty (30) days after receiving the application. If formal notice in writing is given to the applicant, the time for action may be extended for a thirty (30) day period. Failure on the part of the Administrator to act on the application within the established time limit shall be deemed to constitute approval of the application.

205.3 AREA REGULATIONS

The minimum lot area shall be ten thousand (10,000) square feet.

205.4 SETBACK REGULATIONS

Buildings shall be located twenty (20) feet or more from any street right-of-way fifty (50) feet or greater in width, or forty-five (45) feet or more from the center line of any street right-of-way less than fifty (50) feet in width.

Section 205 Limited Industrial (I) District

205.5 FRONTAGE AND YARD REGULATIONS

- (a) Minimum lot width at the setback line shall be seventy (70) feet.
- (b) The side and rear yard adjoining or adjacent to a residential district shall be thirty (30) feet. Within the industrial district, each side and rear yard shall be a minimum of fifteen (15) feet.

205.6 HEIGHT REGULATIONS

Buildings may be erected up to a height of forty-five (45) feet. Chimneys, flues, cooling towers, flagpoles, radio or communication towers or their accessory facilities not normally occupied by workmen are excluded from this limitation. Parapet walls are permitted up to four (4) feet above the limited height of the building on which the walls rest.

205.7 TEMPORARY TRAILERS

The ~~Planning Commission~~ Zoning Administrator may issue a permit, or permits, for the placement of temporary trailers in the I Limited Industrial District. In issuing any temporary trailer permits pursuant to this Section, the ~~Planning Commission~~ Zoning Administrator may establish such conditions or requirements including, but not necessarily limited to, time limitations, provision of sanitary facilities, screening or buffering from adjacent properties, and the posting of a bond or other surety payable to and accepted by the Governing Body in an amount deemed sufficient to assure removal of any such trailers upon expiration of the permit.

specifying type, size, and location of existing and proposed planting material shall be submitted with the application for the permit.

309.8 PARKING FACILITIES

- (a) Off-street parking shall be provided on the premises at the rate of two (2) spaces for each townhouse unit. Each space shall be a minimum of ten (10) feet by twenty (20) feet. Parking shall not be located in any yard area but shall be located in common parking areas only.
- (b) Required parking spaces shall be provided on the same lot as the group of buildings served.
- (c) Entrance and exit ways to parking areas shall have a minimum width of twelve (12) feet for each lane of traffic entering or leaving the site but shall at no time exceed thirty (30) feet in width at the street line. Parking shall not be permitted in the entranceway.
- (d) Parking areas shall be set back at least fifteen (15) feet from the property line of the development.

309.9 DRAINAGE

- (a) A storm run-off and drainage system shall be installed by the developer in accordance with sound engineering practice so as to adequately drain the project site, to adequately dispose of all run-off and drainage away from the project site, and so as not to permit excess flow of water across streets or adjoining properties. Plans for such drainage systems shall be submitted and approved with the application for the permit.
- (b) All provisions of Town ordinance and Virginia Stormwater Management Program regulations regarding storm drainage shall be complied with.

309.10 LIGHTING

Street lighting shall be provided on all public roads and shall be approved by the Town Council.

309.11 STORAGE OF TRASH AND RUBBISH

Exterior storage areas for trash and rubbish shall be well screened on three (3) sides and contain vermin-proof containers.

309.12 SITE PLAN REVIEW AND APPROVAL

Site plans drawn in accordance with Section 314 shall be ~~reviewed by the Planning Commission and~~ approved or rejected by the ~~Town Council~~ Designated Agent.

309.13 FRONTAGE

Each townhouse and/or townhouse parking area access road shall front on a dedicated public street meeting Virginia Department of Transportation and Town standards.

310.8 SCREENING

Screening shall be provided of sufficient height and density to screen the site from adjoining residential properties. A planting plan specifying type, size, and location of existing and proposed planting material shall be submitted with the application for the permit.

310.9 PARKING FACILITIES

- (a) Off-street parking, whether in a garage or on-lot, shall be provided on the premises at the rate of one (1) space for each apartment unit 1,000 square feet or less and two (2) spaces for each apartment unit greater than 1,000 square feet. **(02/14)**
- (b) Required parking spaces shall be provided on the same lot as the building served ~~and shall be reviewed by the Planning Commission and approved by the Town Council.~~
- (c) All access drives shall be at least fifteen (15) feet from any building on the lot and from exterior lot lines.
- (d) Parking areas shall not be designed or located so as to require or encourage cars to back into a public street in order to leave the lot.
- (e) Entrance and exit ways to parking areas shall have a minimum width of twelve (12) feet for each lane of traffic entering or leaving the site but shall at no time exceed thirty (30) feet in width at the street line.

310.10 DRAINAGE

- (a) A storm run-off and drainage system shall be installed by the developer in accordance with sound engineering practice so as to adequately drain the project site, to adequately dispose of all run-off and drainage away from the project site, and so as not to permit excess flow of water across streets or adjoining properties. Plans for such drainage system shall be submitted and approved with the application for the permit.
- (b) All provisions of Town ordinance and Virginia Stormwater Management Program regulations regarding storm drainage shall be complied with.

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310.13 SITE PLAN REVIEW AND APPROVAL

Site Plan drawn in accordance with Section 314 shall be ~~reviewed by the Planning Commission and~~ approved or rejected by the ~~Town Council~~ Designated Agent.

310.14 OTHER REGULATIONS FOR ALL APARTMENT CONSTRUCTION

- (a) Each apartment structure and/or apartment parking area shall have access on a dedicated public street.

Section 313 – Temporary Trailers and Temporary Trailer Parks

SECTION 313 – TEMPORARY TRAILERS AND TEMPORARY TRAILER PARKS

- 313** Zoning permits for no more than two (2) temporary trailers at any one site may be issued by the Zoning Administrator, subject to the following conditions:
(10/83)
- 313.1**
- (a) That the location of the trailer or trailers is necessary for the housing of construction workers employed on a construction project, or for offices for the construction project.
 - (b) That the request is filed by the contractor, with certification that placement of the trailer or trailers is essential to the project and that all such trailers will be removed from the site upon completion of the construction.
 - (c) That sanitary facilities shall be provided in accordance with all applicable requirements of the State Health Department.
 - (d) That the period for which such permits may be granted shall concur with the anticipated period of the construction, provided that applications for renewal may be submitted if more time is required to complete the project. Such renewal applications must be filed at least thirty (30) days prior to expiration of the temporary use permit.
 - (e) That the Zoning Administrator may establish such additional requirements as may be deemed necessary or advisable in the interests of the public good, including a requirement for the posting of a bond to assure that the temporary trailer or trailers will be removed and the site left in satisfactory condition. Any such bond shall be payable to the Governing Body Town Council, in a form and amount acceptable to ~~said Governing Body~~ the Town Council.
- 313.2** Zoning permits for three (3) or more temporary trailers may be approved by the Governing Body Town Council, subject to the conditions set forth in Section 313.1 herein, and further subject to the following additional conditions:
(10/83)
- (a) That a minimum area of two thousand (2,000) square feet be provided for each space.
 - (b) That the ~~Governing Body~~ Town Council shall require the posting of a bond, in an amount and form acceptable to the ~~Governing Body~~ Town Council, to assure that all such temporary trailers will be removed and the site left in satisfactory condition at the completion of the construction project.
 - (c) That the contractor shall furnish satisfactory evidence of approval of proposed sanitation facilities by an appropriate official of the State and/or Clarke County Health Department.
 - (d) That application for renewal of any such temporary permit shall be filed at least sixty (60) days prior to the expiration of the permit.

SECTION 314 – SITE DEVELOPMENT PLANS (1/93)

314 INTENT

The purpose of these requirements is to promote the orderly development of certain activities in the Town and to ensure that such activities are developed in a manner harmonious with surrounding properties and in the interest of public health, safety, and welfare. The site plan shall be used to review a project’s compatibility with its environment; to review the ability of proposed traffic circulation systems to provide for safe and convenient movement of vehicles and pedestrians; to review the quantity, quality, utility, and type of the project’s community facilities; and to review the location and adequacy of the provision for drainage and utilities.

314.1 WHEN REQUIRED

(a) The provisions of this Section shall apply to all buildings, structures, or uses as noted in the Ordinance. Districts and uses which require a site plan include, but are not necessarily limited to, the following:

<u>Districts</u>	<u>Uses</u>
I Limited Industrial	Shopping Centers
L-1 Industrial	Townhouses
C General Commercial	Apartments
C-1 Commercial	Condominiums (in A-R District)
C-2 Commercial	Industrial
M-R Multi-family Residential	Retail
B Business	Offices
BC Business Commercial	
BI Business Industrial	
ITL Institutional	

(b) A site plan shall also be submitted when a change of use of an existing structure requires additional parking or other significant external improvements.

314.2 WAIVER OF REQUIREMENTS

(a) Any requirement of this Section may be waived by the Agent where the waiver is not inconsistent with the intent of this Section, and the applicant establishes that an undue hardship would result from a strict enforcement of this Section, or that the requirement is unreasonable.

(b) The Agent may waive the requirements for site plan review for additions to buildings, structures, and uses if, in his/her opinion, such addition does not substantially affect the intent of this Section.

314.3 ADMINISTRATION

The administration and enforcement of this Ordinance shall be vested in the Designated Agent authorized by the Berryville Town Council.

(a) Administrative Bodies Designated Agent

- ~~The Town Council hereby designates the Berryville Area Development Authority (BADA) as the Administrative Body for property within Annexation Area “B”, as defined in the County/Town Agreement Defining Annexation~~

~~Rights, which is the subject of the application and for which no final Certificate of Occupancy has been granted.~~

~~2. In all other areas of Town, as well as for those plans involving property in Annexation Area “B” for which a final Certificate of Occupancy has previously been granted, the Town Council hereby designates the Berryville Planning Commission as the Administrative Body.~~

3. The ~~BADA and Planning Commission~~ are Designated Agent is delegated the power to administer this Section ~~within their respective jurisdictions~~, reviewing and approving or disapproving site plans as appropriate. The Designated Agent shall be responsible for the processing of site development plan applications, subject to the procedures provided herein. The ~~Administrative Bodies~~ Designated Agent may accept comments from the Town of Berryville, the County of Clarke, and other applicable public agencies when reviewing site plans.

~~(b)~~ Agent

~~The Planning Commission may act through the Berryville planning staff, and the BADA through the Berryville planning staff or the Clarke County planning staff (the “Agent”), to the extent the Administrative Bodies find it appropriate for the administration of this Section; provided that no agent may act for the Administrative Bodies in approving, conditionally approving, or disapproving any site plan. The Agent shall be responsible for the processing of site development plan applications, subject to the procedures provided herein.~~

~~(e b)~~ Inspection

All government officers and employees responsible for the enforcement of this Section shall have the right to enter upon any property at all reasonable times during the period of construction for the purpose of making inspections for compliance with this Section. It shall be the responsibility of the developer to notify the Designated Agent when each stage of the development is ready for inspection for compliance with the approved site plan ~~as approved by the Administrative Body~~. The developer shall make one (1) set of the approved site plan available at the site at all times during construction.

314.4 PROCEDURES

(a) Pre-Application Conference

All applicants shall first submit a sketch plan and request a pre-application conference with the Designated Agent to discuss the basic site development scheme, basic ordinance requirements, and preliminary features of the proposed development as they relate to this Section.

(b) Application

1. Application for approval of a site development plan shall be made by submitting an application form, fifteen (15) copies of the site plan, and the applicable fee, to the Designated Agent.
2. The Designated Agent shall review the submitted materials to determine if the basic requirements of this Section have been met. If in conformance, the

Section 314 – Site Development Plans

application shall be accepted for filing, ~~and shall be forwarded to the Administrative Body.~~

3. The Designated Agent shall forward copies of the site plan to all applicable agencies and officials for written comments and recommendations. ~~After receiving such comments and recommendations, the Agent shall prepare a report for the Administrative Body.~~
4. The site plan and accompanying materials shall be available for public review in the Berryville town offices.
5. In addition to the fee set by the Town Council, the applicant shall also bear the costs of any professional services employed by the ~~Administrative Body~~ Town in reviewing the site plan.

(c) Action on Site Plan Application

1. Time Period – After receiving a complete application ~~from the Designated Agent, the Administrative Body shall consider the application at the next regular monthly meeting. Within one hundred (100) days of this first meeting, the Administrative Body shall act to approve, approve with conditions, or disapprove the site plan. Failure of the Administrative Body to act within this one hundred (100) day period shall be deemed approval of the site plan unless an extension of the time period is agreed upon by the Administrative Body and the applicant shall within 60 days either approve or disapprove the site plan in writing, and giving with the latter specific reasons therefor. The Designated Agent shall act on any proposed site plan that it has previously disapproved within 45 days after the site plan has been modified, corrected and resubmitted for approval.~~

(d) Public Notice and Hearings

Action on site plans not requiring an ordinance amendment is administrative and does not require public notice or hearings. ~~However, the Administrative Body may provide public notice and hold public hearings on the site plan request, if it deems it desirable.~~

(e) Action by the Administrative Body

1. The ~~Administrative Body~~ Designated Agent shall approve the site plan if it finds that the plan meets the requirements of this Section; meets the intent of the Berryville Comprehensive Plan and/or its Berryville Area Plan component; and would promote the health, safety, and general welfare of the public.
2. The ~~Administrative Body~~ Designated Agent may condition approval of the site plan upon the applicant making certain changes or modifications to the plan, said conditions to be stated in writing by the ~~Administrative Body~~ Designated Agent.
3. The ~~Administrative Body~~ Designated Agent may disapprove a site plan, stating in writing the reasons for such disapproval.

(f) Appeals

Any applicant may appeal the decision of the ~~Administrative Body~~ Designated Agent by filing within thirty (30) days of the decision ~~of the Administrative Body~~ an appeal in writing to the ~~Town Council of Berryville, Virginia~~ Board of Zoning Appeals.

(g) Site Plans Submitted with Special Use Permit Applications

Section 314 – Site Development Plans

Where a site plan is submitted with a Special Use Permit application as required in Section 503 of this Ordinance, the action of the ~~Administrative Body~~ Planning Commission shall be in the form of a recommendation to the Town Council. Town Council shall then consider the site plan in conjunction with the Special Use Permit request, as outlined in Section 503.

314.5 SPECIFICATIONS

Every site plan shall be prepared in accordance with the following specifications:

- (a) The scale shall be one (1) inch equals not more than fifty (50) feet.
- (b) All site plans shall be submitted on 24- by 36-inch sheets.
- (c) If the site plan is on more than one sheet, match lines shall clearly indicate where the sheets join.
- (d) Horizontal dimensions shall be in feet and decimals of feet to the nearest one-hundredth (1/100) of a foot.

314.6 CONTENTS

The site plan or any portion thereof involving engineering, urban planning, landscape architecture, architecture, or land surveying shall be prepared by qualified persons. Site plans shall be certified by seal and signature of an architect, engineer, or land surveyor licensed to practice by the Commonwealth of Virginia within the limits of their respective licenses. The site plan shall contain the following information, as applicable.

- (a) The proposed title of the project and the name of the engineer, architect, landscape architect, or surveyor; the name of the developer; and the name and address of the property owner.
- (b) A signature area for approvals by ~~the chairman of the Administrative Body~~ and the Designated Agent.
- (c) Signature of the property owner.
- (d) North point, scale, and date.
- (e) Vicinity map at a scale of one (1) inch equals not more than two thousand (2,000) feet, showing the location of the project in relation to corporate limits, town streets, and other prominent features.
- (f) Existing zoning and zoning district boundaries for the property in question, and for immediately surrounding properties.
- (g) The present owner and use of all properties contiguous or directly across the street.
- (h) The boundaries of the property involved by bearings and distances, certified by a land surveyor licensed to practice in the Commonwealth of Virginia.
- (i) All existing property lines, existing streets, buildings, watercourses, waterways, lakes, and other existing physical features on or adjoining the property. Size and height of existing buildings on the property should be shown. Features on adjoining properties need only be shown in approximate scale and proportion.
- (j) Topography of the project area with contour intervals of two (2) feet or less.
- (k) Location and sizes of sanitary and storm sewers, gas lines, water lines, culverts, fire hydrants, and other above-ground or underground structures in or affecting the project, including existing and proposed facilities, and easements for these facilities.
- (l) The location, dimensions, name, and construction details (including typical sections) of proposed streets, alleys, driveways, and the location, type, and size of ingress and

Section 314 – Site Development Plans

- egress to the site. When proposed streets intersect with existing streets, both edges of existing pavement or curb and gutter must be indicated for a minimum of fifty (50) feet or the length of connections, whichever is greater.
- (m) The location of all off-street parking, loading spaces, and walkways, indicating the types of surfacing, size and angle of stalls, width of aisles, and a schedule showing the number of parking spaces.
 - (n) The location, height, type, and material of all fences, walls, screen planting, and landscaping details of all buildings and grounds, and the location, height, and character of all outdoor lighting systems.
 - (o) The location of all proposed buildings and structures, primary and accessory; number of stories and height; proposed general use of each structure; and the number, size, and type of dwelling units, where applicable.
 - (p) Provision for the adequate disposition of natural and storm water indicating the location, sizes, types, and grades of ditches, catch basins, detention ponds (showing 10-year and 100-year elevations), and pipes and connections to existing drainage systems. Plans shall be in accordance with the Berryville Stormwater System Master Plan and Virginia Stormwater Management Program regulations.
 - (q) Provisions, plans, and schedules for the adequate control of erosion and sediment, in accordance with the Town of Berryville Erosion and Sediment Control Ordinance.
 - (r) Proposed finished grading by contour, supplemented where necessary by spot elevations.
 - (s) Floodplain studies as required by the Designated Agent.
 - (t) The location, size, height, materials used, orientation, and illumination of proposed signs.
 - (u) The location, dimensions, and total area of proposed recreation, open space, and required amenities and improvements.
 - (v) The location of all wooded areas on the site; the location of all other individual trees with a diameter of eight (8) inches or more, measured one (1) foot above the ground; and an indication of which trees are to be retained and which are to be removed.
 - (w) A landscape plan (same scale as site plan), meeting the minimum landscape standards described below.
 - (x) Development sequence for phased construction, if applicable.
 - (y) Building restriction lines.
 - (z) Distance to nearest school or school site.
 - (aa) Elevation plans for all exterior facades of proposed structures, showing design features and indicating materials and colors to be used.
 - (bb) Source of title of the owner of record, including deed book and page reference of the last instrument in the chain of title.
 - (cc) Total site acreage of individual lots and street rights-of-way.
 - (dd) Location and acreage to the nearest one-tenth (0.1) acre of Critical Environmental Areas, including the following: slopes between 15 and 25 percent; slopes greater than 25 percent; rock outcroppings; sinkholes; floodplains and floodplain soils; current drainage channels; bodies of water; stormwater management facilities; utilities; and other sensitive areas defined by the Designated Agent. The Designated

Section 314 – Site Development Plans

- Agent may require that a geotechnical report be submitted where warranted by soil or water conditions.
- (ee) Floor area ratio (FAR) and impervious surface coverage for all structures on the property.
 - (ff) Maximum number of employees anticipated, if industrial, commercial, or office; net density of dwelling units, if residential.
 - (gg) Anticipated daily and peak water demand and sewage flows for the site.
 - (hh) Anticipated daily vehicle trips generated by the site development; capacity of existing and proposed streets; sight distances for all intersections; proposed improvements within existing street rights-of-way; further traffic studies as required by the Designated Agent.
 - (ii) A copy of all proposed homeowners' association by laws, and other covenants or maintenance documents where common ownership is anticipated.
 - (jj) A copy of rezoning proffers, Special Use Permit conditions, or variances granted for the property shall be submitted with the site plan.
 - (kk) Bond estimates for all required improvements.
 - (ll) Any necessary notes required by the Agent to explain the purpose of specific items on the plan.
 - (mm) Additional information as deemed necessary by the Designated Administrative Body or the Agent.

314.7

IMPROVEMENTS AND MINIMUM STANDARDS

To further the intent of this Section and to protect public safety and general welfare, no site plan shall be approved until the ~~Administrative Body~~ Designated Agent is assured that improvements will be made which meet the following minimum standards:

- (a) Streets and Rights-of-Way
 1. Streets, driveways, access roads and rights-of-way shall be constructed and dedicated, and existing streets widened and improved as necessary, when the need for such streets and improvements is generated by the proposed development, or is indicated in the Berryville Comprehensive Plan and/or its Berryville Area Plan component.
 2. All street construction standards and geometric design standards shall be in accord with the standards of the Berryville Subdivision Ordinance, the Virginia Department of Transportation, or other standards provided by the Town of Berryville. However, the ~~Authority or the~~ Designated Agent may modify standards for local, collector, and minor loop streets, provided that off-street parking sufficient to accommodate required parking ratios are provided to complement the street system, and approval of the modifications is obtained from the Virginia Department of Transportation, where applicable.
 3. All development must have direct access to public dedicated and State or Town-maintained roads. Sites or lots shall not have direct access to any arterial road, unless the physiography, shape, or size of the tract precludes other methods of access.
 4. Where traffic generated from an entire development exceeds 2,000 vehicle trips per day, such development shall provide connectors to existing public roads at two or more locations. Where only one connection is physically achievable, the

Section 314 – Site Development Plans

connecting portion of the entrance road must be a four-lane divided road extending not less than two hundred fifty (250) feet into the development. No internal vehicular connection shall be permitted on this entrance section.

5. Streets and rights-of-way shall permit access to adjoin properties in conformance with the Berryville Area Plan, Comprehensive Plan, and the satisfaction the ~~Administrative Body or the~~ Designated Agent.
6. Travel ways designed for on-site two-way vehicular traffic circulation shall in no case have a pavement width of less than twenty (20) feet.
7. Street right-of-way widths shall conform to the following chart:

(06/24)

ROW WIDTH	ADT	Design Speed	Road Width (Parking 2 sides)	Curb & Gutter	Buffer Strip	Sidewalk Width
55'	Up to 2,000	25 mph	30'	CG-6	5'	5'
65'	2,001 to 4,000	25 mph	36'	CG-6	7'	5'

- (b) Cul-de-Sacs
Cul-de-sacs shall be designed and constructed in accordance with the street standards of the Berryville Subdivision Ordinance, or with other standards provided by the Town of Berryville. Cul-de-sacs may not be used as parking areas.
- (c) Parking
Parking bays shall be constructed to standards compatible with those of the adjoining public street, and shall be provided in a quantity according to the schedule set forth in the Berryville Zoning Ordinance. Off-street parking spaces shall be accessed via private travel ways, and not directly accessed from public rights-of-way.
- (d) Sidewalks, Paths, and Walkways
Sidewalks, paths, and/or walkways shall be provided to enable the public to walk safely and conveniently from one building to another on the site, to and from adjacent sites, and to and from sidewalks in the public right-of-way. The construction material to be used must meet the approval of the Administrative Body or the Agent.
- (e) Curb and Gutter
Curb and gutter (CG-6 or approved equivalent) shall be required on all new public streets. The Administrative Body may require curb and gutter on off-street parking areas, service drives, private streets, and around medians, where warranted by conditions. Upon recommendation from the Virginia Department of Transportation, the Administrative Body may waive the requirement for curb and gutter when in keeping with existing conditions on adjacent sites, and when safe travel and adequate stormwater management can be assured without curb and gutter.
- (f) Utilities and Utility Easements

Section 314 – Site Development Plans

- (c) The approval of a site plan and/or the installation of improvements shall not obligate the Town to accept the improvements for maintenance, repair, or operation. Acceptance shall be subject to Town and/or State regulations, where applicable, and dependent on the satisfactory nature of the improvements.
- (d) The applicant is required to post a bond or other acceptable surety covering the construction and satisfactory completion of all required on-site and off-site improvements. Such bond shall be posted under the provisions of Berryville Area Plan Bonding Agreement.

314.9 REVISIONS

The Designated Agent may administratively approve changes to an approved site plan which the Designated Agent determines are minor revisions, complying with all provisions of the Section and having no additional adverse impact on public facilities or adjacent properties. Major revisions are permitted, provided that they are approved by the Administrative Body in the same manner as the original site plan.

314.10 TERMINATION AND EXTENSION

An approved site plan shall expire and become null and void if all approved development is not completed within five (5) years from the date of approval. The ~~Administrative Body~~ Designated Agent may grant a one (1)-year extension upon written request.

314.11 BUILDING PERMITS

For all properties and uses subject to this Section, no building permit shall be issued to construct or alter any structure, or authorization granted to improve land, until a site plan has been approved.

Section 324 – Donation Drop-Off Boxes

- (f) Any temporary family health care structure installed pursuant to this section shall be removed within 30 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.
- (g) The ~~local governing body~~ **Town Council**, or the zoning administrator on its behalf, may revoke the permit granted pursuant to subsection C if the permit holder violates any provision of this section. Additionally, the local governing body may seek injunctive relief or other appropriate actions or proceedings in the circuit court of that locality to ensure compliance with this section. The zoning administrator is vested with all necessary authority on behalf of the governing body of the Town of Berryville to ensure compliance with this section.

SECTION 324 – Donation Drop-off Boxes (5/13)

- 324**
- (a) Donation drop-off boxes shall be permitted in all zoning districts provided they are located on a property that contains a church or building containing a charitable use as a permitted primary use. The donation drop-off box shall specifically benefit that church or charitable use.
 - (b) Donation drop-off boxes shall not be located in any provided front or corner-side yard, nor located in any required side yard setback.
 - (c) Donation drop-off boxes shall not obstruct pedestrian or vehicular circulation, nor be located in public rights-of-way, landscape areas, required parking spaces, fire lanes, loading zones, or any other location that may cause hazardous conditions, constitute a threat to the public safety, or create a condition detrimental to surrounding land uses.
 - (d) Donation drop-off boxes shall not be located within the 100-year floodplain as identified in the current Flood Insurance Rate Map (FIRM).
 - (e) Donation drop-off boxes shall be clearly marked to identify the specific items and materials requested to be left for donation, the name of the operator or owner of the container, the entity responsible for maintenance of the drop-off box and removal of materials and trash from the immediate area, and a telephone number where the owner, operator or agent may be reached at any time.
 - (f) No more than two donation drop-off boxes shall be located on any property, and each donation drop-off box shall have a capacity of no more than six (6) cubic yards and a maximum height of seven (7) feet.
 - (g) Donation drop-off Boxes located within the Town of Berryville Historic District shall be reviewed by the Architectural Review Board prior to installation and shall be reviewed to the standards by which determinations are made per Section 703.6 of the Berryville Zoning Ordinance.
 - (h) A donation drop-off box shall be screened per Section 314.j.2. of the Berryville Zoning Ordinance, which requires that all refuse containers be completely enclosed with a solid opaque wood fence or masonry wall at least six (6) feet high.

Section 408 – Non-Conforming Uses of Structures or Buildings

of the issuance of a building permit. No such nonconforming structures that are restored or reconstructed within the time limit set forth above shall be enlarged or altered in a way that increases its nonconformity. (04/05)

407.3 MOVING OF STRUCTURE OR BUILDING

No non-conforming structure or building shall be, for any reason, moved for any distance unless it shall thereafter conform to the zoning regulations for the district in which it is located after it is moved.

SECTION 408 - NON-CONFORMING USES OF STRUCTURES OR BUILDINGS

408 Lawful uses of structures or buildings which at the effective date of this Ordinance or as a result of subsequent amendments thereto become non-conforming, may be continued by the present or any subsequent owner so long as such use remained otherwise lawful, subject to the following provisions:

408.1 EXTENSION

A non-conforming use of a structure or building shall not be extended or expanded to occupy a greater area of said structure than was used for such uses at the time of adoption of this Ordinance.

408.2 CHANGE OF USE OF A STRUCTURE

Such non-conforming use, if changed to any conforming use, shall not thereafter be changed back to a non-conforming use.

408.3 CHANGE OF USE OF A STRUCTURE AS A SPECIAL EXCEPTION

Such non-conforming use of a building or structure may, as a special exception, be changed to another non-conforming use, provided that in considering each specific case, the Town Council shall find that the proposed use is equally or more appropriate to the district than the existing non-conforming use and that the building and/or structure is adequate for the proposed use. In permitting such change, the Town Council may impose conditions and safeguards deemed appropriate.

408.4 DESTRUCTION OF STRUCTURE OR BUILDING WITH A NON-CONFORMING USE

Removal or destruction of the structure or building in which a non-conforming use is located shall eliminate the use which the structure or building was used for (a non-conforming use). Destruction for the purpose of this Sub-section is defined as damage to an extent of fifty (50) percent or more of the market value of the structure or building immediately prior to such damage or destruction. A person may rebuild or restore such use if he applies for a permit within six months of destruction.

ARTICLE V – ADMINISTRATION AND ENFORCEMENT

SECTION 501 - ZONING PERMITS

- 501.1** No buildings or structures or uses of land shall be started, repaired, reconstructed, enlarged, or altered until after a zoning permit has been obtained from the Zoning Administrator.
- 501.2** Each application for a zoning permit shall be accompanied by three (3) copies of an adequately dimensioned drawing unless as otherwise specified by the Zoning Administrator. The drawing shall show the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land, the location and arrangement of off-street parking, the location of such building or use with respect to the property line of said parcel of land and to the right-of-way of any street or highway adjoining said parcel of land, the developer's drainage plan for properly distributing surface water, and additional information as required by this Ordinance. Any other information that the Zoning Administrator may deem necessary for the consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this Ordinance, a permit shall be issued to the applicant by the Zoning Administrator. One copy of the drawing shall be returned to the applicant with the permit.
- 501.3** FOOTING INSPECTION
(8/01) Whenever any main building or addition to an existing main building is proposed to be located within two (2) feet of the required setback or yard, the owner or developer shall provide, at the time of footing inspection, survey markers locating the required setback or yard, which have been set and certified by a land surveyor licensed under the laws of the Commonwealth of Virginia. Survey markers may be offset up to but not exceeding four (4) feet. The amount of offset shall be clearly indicated on the survey marker. The markers shall remain in place and undisturbed until the completion of the foundation wall.
- 501.4** EXPIRATION
(8/01) A zoning permit shall expire six (6) months after the date of issuance, if work described in any permit has not begun. If work described in any zoning permit has begun within such six-month period, such permit shall expire twelve (12) months from the date of issuance or upon expiration of any required building permit.

SECTION 502 - CERTIFICATE OF OCCUPANCY

- 502.1** Land may be used or occupied, and buildings that have been structurally altered or erected may be used or changed in use only after a Certificate of Occupancy has been issued by the Zoning Administrator. Such a permit shall state that the building or the proposed use, or the use of the land, complies with the provisions of this Ordinance. A similar certificate shall be issued for the purpose of maintaining, renewing, changing, or extending a non-conforming use. A Certificate of Occupancy either for the whole or a part of a building shall be applied for simultaneously with the application for a zoning permit. The permit shall be issued within ten (10) days after the erection or structural alteration of such building or part has conformed to the provisions of this Ordinance.

SECTION 503 - SPECIAL USE PERMIT

503.1 PROVISIONS FOR SPECIAL USE PERMITS

- (a) In consideration of an application filed with the Zoning Administrator, the Town Council may, after a public hearing, authorize the establishment of those uses that are expressly listed as Special Permit uses in a particular zoning district.
- (b) In addition to all applicable conditions and requirements of this Ordinance, the Town Council may impose any conditions deemed appropriate in the public interest to secure compliance with the provisions of this Ordinance.
- (c) Once a Special Use Permit is granted, the use shall not be enlarged, extended, increased in intensity or relocated unless authorized by the Town Council.
- (d) Whenever a Special Use Permit is granted by the Town Council, the authorized activities shall be established within one (1) year of the date of approval, or such Special Use Permit shall expire without notice.
- (e) Should the owner or operator of the use covered by the Special Permit fail to observe all requirements of law with respect to the maintenance and conduct of the use and all permit conditions, the Town Council may, after due notice to permit holder and a public hearing, revoke the Special Use Permit.

503.2 APPLICATIONS

An application for a Special Use Permit may be submitted by the property owner of record, tenant, or contractor owner.

503.3 APPLICATION REQUIREMENTS

Applications for Special Use Permits shall be accompanied by seven (7) copies of the following items:

- (a) Letter of request, signed by property owner and applicant, outlining complete details of special use desired.
- (b) Site development plan.
- (c) Floor plan, front, side, and rear elevations of proposed new buildings.
- (d) Certified house location plat.
- (e) Information deemed necessary by the Zoning Administrator.
- (f) Applicable filing fee.

503.4 APPLICATION PROCEDURE

- (a) Application submitted to Zoning Administrator, which shall be referred to the Planning Commission for recommendation, and a public hearing shall be scheduled by the Town Council.
- (b) Review by the Planning Commission (public hearing if desired) and recommendation to Town Council.
- (c) Public hearing by Town Council.
- (d) Town Council action (In acting upon the application, the Town Council shall consider the following, among other relevant factors):
 - 1. The health, safety, and welfare of the general public.
 - 2. Physical and visual impact on adjoining and abutting properties.
 - 3. Adequate utilities, drainage, parking, and other necessary facilities to serve the proposed use.

Section 503 Special Use Permit

4. Compliance with the adopted master plan.
 5. Environmental compatibility.
 6. Community sentiment.
- (e) Applicant to be notified by Zoning Administrator of Town Council action.

SECTION 504 - SCHEDULE OF FEES, CHARGES, AND EXPENSES

- 504.1** The Town Council shall establish, by resolution, a schedule of fees, charges, and expenses and collection procedures for zoning permits, certificates of use and occupancy, special permits, variances, appeals, amendments, and other matters pertaining to this Ordinance.
- 504.2** The schedule of fees shall be available for inspection in the office of the Zoning Administrator and may be altered or amended by the ~~Governing Body~~ Town Council by resolutions. Until all application fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

505.6 LIMITATIONS ON POWERS OF BOARD

The Board shall not have the power to rezone property or to base Board decisions on the merits of the purpose and intent of Town ordinances duly adopted by the Town Council.

506 MODIFICATIONS

- (a) The Zoning Administrator may grant a modification from any provision contained in the Zoning Ordinance with respect to physical requirements on a lot or parcel of land, including but not limited to size, height, location or features of or related to any building, structure, or improvements if the **Zoning** Administrator finds in writing that:
 - 1. the strict application of the ordinance would produce undue hardship;
 - 2. such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
 - 3. the authorization of the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification.
- (b) The Zoning Administrator may not grant a modification that is more than 10% of a regulation standards.
- (c) Before the granting of a modification, the Zoning Administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for modification, and an opportunity to respond to the request within 21 days of the date of the notice. Before the granting of a modification, the Zoning Administrator shall consult with the Chair and Vice Chair of the Board of Zoning Appeals.
- (d) The Zoning Administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this paragraph. The Zoning Administrator shall provide a copy of a written decision to the Board of Zoning Appeals within five working days from making the decision.
- (e) The decision of the Zoning Administrator may be appealed to the Board of Zoning Appeals as provided in Section 505.3 of this Ordinance.

SECTION 510 - ADMINISTRATION

- 510.1 This Ordinance shall be enforced by the Zoning Administrator who shall be appointed by the ~~Governing Body~~ Town Council. The Zoning Administrator shall serve at the pleasure of ~~that body~~ the Town Council. Compensation for such shall be fixed by resolution of the ~~Governing Body~~ Town Council.

- 510.2 Nothing contained herein shall require any change in the plans or construction of any building or structure for which a permit was granted prior to the effective date of this Ordinance and/or amendments thereto, provided such construction commences within thirty (30) days after this Ordinance amendment becomes effective and provided the building or structure is completed within a period of one (1) year after construction was started or one (1) year after the effective date of this Ordinance/amendment, whichever is sooner. If construction is discontinued for a period of six (6) months or more, further construction shall be in conformity with the provisions of this Ordinance for the district in which the operation is located. (1/90)

SECTION 511 - INTERPRETATION

- 511 Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:
 - 511.1 Where district boundaries are indicated as approximately following or being at right angles to the center lines of streets, highways, alleys, or railroad main tracks, such center lines or lines at right angles shall be construed to be such boundaries, as the case may be.

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

 - 511.3 If no distance, angle, curvature, description or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the use of the scale shown on said Zoning Map. In case of subsequent dispute, the matter shall be referred to the Board of Zoning Appeals, which shall determine the boundary.

SECTION 512 - SEVERABILITY

- 512 Should any section or provision of this Ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

SECTION 513 - CONFLICTING ORDINANCES

CHAPTER 594

An Act to amend and reenact §§ 15.2-2201, 15.2-2241, 15.2-2245, 15.2-2254, 15.2-2258, 15.2-2259, 15.2-2260, 15.2-2261, 15.2-2269, 15.2-2270, 15.2-2271, and 15.2-2307 of the Code of Virginia, relating to subdivision ordinance; plan review by designated agent.

[S 974]

Approved March 24, 2025

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2201, 15.2-2241, 15.2-2245, 15.2-2254, 15.2-2258, 15.2-2259, 15.2-2260, 15.2-2261, 15.2-2269, 15.2-2270, 15.2-2271, and 15.2-2307 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-2201. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Affordable housing" means, as a guideline, housing that is affordable to households with incomes at or below the area median income, provided that the occupant pays no more than thirty percent of his gross income for gross housing costs, including utilities. For the purpose of administering affordable dwelling unit ordinances authorized by this chapter, local governments may establish individual definitions of affordable housing and affordable dwelling units including determination of the appropriate percent of area median income and percent of gross income.

"Conditional zoning" means, as part of classifying land within a locality into areas and districts by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to, or modification of the regulations provided for a particular zoning district or zone by the overall zoning ordinance.

"Designated agent" means any agent employed or authorized by a locality and designated by the governing body to review and act on subdivision plats, site plans, and plans of development. "Designated agent" does not include the local planning commission. However, the local planning commission may serve as the designated agent of any locality with a population of 5,000 or less.

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. The term "development" shall not be construed to include any tract of land which will be principally devoted to agricultural production.

"Historic area" means an area containing one or more buildings or places in which historic events occurred or having special public value because of notable architectural, archaeological or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

"Incentive zoning" means the use of bonuses in the form of increased project density or other benefits to a developer in return for the developer providing certain features, design elements, uses, services, or amenities desired by the locality, including but not limited to, site design incorporating principles of new urbanism and traditional neighborhood development, environmentally sustainable and energy-efficient building design, affordable housing creation and preservation, and historical preservation, as part of the development.

"Local planning commission" means a municipal planning commission or a county planning commission.

"Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under jurisdiction of the U.S. Department of Defense, including any leased facility, or any land or interest in land owned by the Commonwealth and administered by the Adjutant General of Virginia or the Virginia Department of Military Affairs. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

"Mixed use development" means property that incorporates two or more different uses, and may include a variety of housing types, within a single development.

"Official map" means a map of legally established and proposed public streets, waterways, and public areas adopted by a locality in accordance with the provisions of Article 4 (§ 15.2-2233 et seq.) hereof.

"Planned unit development" means a form of development characterized by unified site design for a variety of housing types and densities, clustering of buildings, common open space, and a mix of building types and land uses in which project planning and density calculation are performed for the entire development rather than on an individual lot basis.

"Planning district commission" means a regional planning agency chartered under the provisions of Chapter 42 (§ 15.2-4200 et seq.) of this title.

"Plat" or "plat of subdivision" means the schematic representation of land divided or to be divided and information in accordance with the provisions of §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and 15.2-2264, and other applicable statutes.

"Preliminary subdivision plat" means the proposed schematic representation of development or subdivision that establishes how the provisions of §§ 15.2-2241 and 15.2-2242, and other applicable statutes will be achieved.

"Resident curator" means a person, firm, or corporation that leases or otherwise contracts to manage, preserve, maintain, operate, or reside in a historic property in accordance with the provisions of § 15.2-2306 and other applicable statutes.

"Site plan" means the proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as required by the subdivision ordinance to which the proposed development or subdivision is subject.

"Special exception" means a special use that is a use not permitted in a particular district except by a special use permit granted under the provisions of this chapter and any zoning ordinances adopted herewith.

"Street" means highway, street, avenue, boulevard, road, lane, alley, or any public way.

"Subdivision," unless otherwise defined in an ordinance adopted pursuant to § 15.2-2240, means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance with § 15.2-2258. Nothing in this definition, section, nor any ordinance adopted pursuant to § 15.2-2240 shall preclude different owners of adjacent parcels from entering into a valid and enforceable boundary line agreement with one another so long as such agreement is only used to resolve a bona fide property line dispute, the boundary adjustment does not move by more than 250 feet from the center of the current platted line or alter either parcel's resultant acreage by more than five percent of the smaller parcel size, and

such agreement does not create an additional lot, alter the existing boundary lines of localities, result in greater street frontage, or interfere with a recorded easement, and such agreement shall not result in any nonconformity with local ordinances and health department regulations. Notice shall be provided to the zoning administrator of the locality in which the parcels are located for review. For any property affected by this definition, any division of land subject to a partition suit by virtue of order or decree by a court of competent jurisdiction shall take precedence over the requirements of Article 6 (§ 15.2-2240 et seq.) and the minimum lot area, width, or frontage requirements in the zoning ordinance so long as the lot or parcel resulting from such order or decree does not vary from minimum lot area, width, or frontage requirements by more than 20 percent. A copy of the final decree shall be provided to the zoning administrator of the locality in which the property is located.

"Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

"Working waterfront" means an area or structure on, over, or adjacent to navigable waters that provides access to the water and is used for water-dependent commercial, industrial, or governmental activities, including commercial and recreational fishing; tourism; aquaculture; boat and ship building, repair, and services; seafood processing and sales; transportation; shipping; marine construction; and military activities.

"Working waterfront development area" means an area containing one or more working waterfronts having economic, cultural, or historic public value of such significance as to warrant development and reparation.

"Zoning" or "to zone" means the process of classifying land within a locality into areas and districts, such areas and districts being generally referred to as "zones," by legislative action and the prescribing and application in each area and district of regulations concerning building and structure designs, building and structure placement and uses to which land, buildings and structures within such designated areas and districts may be put.

§ 15.2-2241. Mandatory provisions of a subdivision ordinance.

A. A subdivision ordinance shall include reasonable regulations and provisions that apply to or provide:

1. For plat details which shall meet the standard for plats as adopted under § 42.1-82 of the Virginia Public Records Act (§ 42.1-76 et seq.);
2. For the coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general area as to location, widths, grades and drainage, including, for ordinances and amendments thereto adopted on or after January 1, 1990, for the coordination of such streets with existing or planned streets in existing or future adjacent or contiguous to adjacent subdivisions;
3. For adequate provisions for drainage and flood control, for adequate provisions related to the failure of impounding structures and impacts within dam break inundation zones, and other public purposes, and for light and air, and for identifying soil characteristics;
4. For the extent to which and the manner in which streets shall be graded, graveled or otherwise improved and water and storm and sanitary sewer and other public utilities or other community facilities are to be installed;
5. For the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system or other improvement dedicated for public use, and maintained by the locality, the Commonwealth, or other public agency,

and for the provision of other site-related improvements required by local ordinances for vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for storm water management facilities, financed or to be financed in whole or in part by private funds only if the owner or developer (i) certifies to the governing body that the construction costs have been paid to the person constructing such facilities or, at the option of the local governing body, presents evidence satisfactory to the governing body that the time for recordation of any mechanics lien has expired or evidence that any debt for said construction that may be due and owing is contested and further provides indemnity with adequate surety in an amount deemed sufficient by the governing body or its designated administrative agency agent; (ii) furnishes to the governing body a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the governing body or its designated administrative agency agent, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (iii) furnishes to the governing body a bank or savings institution's letter of credit on certain designated funds satisfactory to the governing body or its designated administrative agency agent as to the bank or savings institution, the amount and the form. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed 10 percent of the estimated construction costs. If the owner or developer defaults on construction of such facilities, and such facilities are constructed by the surety or with funding from the aforesaid check, cash escrow, bond or letter of credit, the locality shall be entitled to retain or collect the allowance for administrative costs to the extent the costs of such construction do not exceed the total of the originally estimated costs of construction and the allowance for administrative costs. "Such facilities," as used in this section, means those facilities specifically provided for in this section.

If a developer records a final plat which may be a section of a subdivision as shown on an approved preliminary subdivision plat and furnishes to the governing body a certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the Commonwealth, or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary subdivision plat for a period of five years from the recordation date of any section, or for such longer period as the local commission or other agent may, at the approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development, subject to the terms and conditions of this subsection and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded. In the event a governing body of a county, wherein the highway system is maintained by the Department of Transportation, has accepted the dedication of a road for public use and such road due to factors other than its quality of construction is not acceptable into the secondary system of state highways, then such governing body may, if so provided by its subdivision ordinance, require the subdivider or developer to furnish the county with a maintenance and indemnifying bond, with surety satisfactory to the governing body or its designated administrative agency agent, in an amount sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways. In lieu of such bond, the governing body or its designated administrative agency agent may accept a bank or savings institution's letter of credit on certain designated funds satisfactory to the governing body or its designated administrative agency agent as to the bank or savings institution, the amount and the form, or accept payment of a negotiated sum of money sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways and assume the subdivider's or developer's liability for maintenance of such road. "Maintenance of such road" as used in this section, means maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction of defects or damages and the removal of snow, water or debris, so as to keep such road reasonably open for public usage:

As used in this section, "designated administrative agency" means the planning commission of the locality or an agent designated by the governing body of the locality for such purpose as set forth in §§ 15.2-2258 through 15.2-

6. For conveyance of common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision. Once a developer conveys an easement that will permit electric, cable or telephone service to be furnished to a subdivision, the developer shall, within 30 days after written request by a cable television operator or telephone service provider, grant an easement to that cable television operator or telephone service provider for the purpose of providing cable television and communications services to that subdivision, which easement shall be geographically coextensive with the electric service easement, or if only a telephone or cable service easement has been granted, then geographically coextensive with that telephone or cable service easement; however, the developer and franchised cable television operator or telephone service provider may mutually agree on an alternate location for an easement. If the final subdivision plat is recorded and does not include conveyance of a common or shared easement as provided herein, the ~~local planning commission or agent designated by the governing body to review and act on submitted subdivision plats~~ *designated agent* shall not be responsible to enforce the requirements of this subdivision;

7. For monuments of specific types to be installed establishing street and property lines;

8. That unless a plat is filed for recordation within six months after final approval thereof or such longer period as may be approved by the governing body, such approval shall be withdrawn and the plat marked void and returned to the approving official; however, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the ~~governing body or its designated administrative agency agent~~, or where the developer has furnished surety to the ~~governing body or its designated administrative agency agent~~ by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the ~~governing body or its designated administrative agency~~; *whichever is greater agent*;

9. For the administration and enforcement of such ordinance, not inconsistent with provisions contained in this chapter, and specifically for the imposition of reasonable fees and charges for the review of plats and plans, and for the inspection of facilities required by any such ordinance to be installed; such fees and charges shall in no instance exceed an amount commensurate with the services rendered taking into consideration the time, skill and administrator's expense involved. All such charges heretofore made are hereby validated;

10. For reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner in accordance with the provisions of § 15.2-2244; ~~and~~

11. For the periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the governing body under this section in accordance with the provisions of § 15.2-2245;

12. For the review of plats, site plans, and plans of development solely involving parcels of commercial or residential real estate as set forth in §§ 15.2-2259 and 15.2-2260; and

13. For the identification of deficiencies, corrections, or modifications of proposed and resubmitted plats and plans as set forth in §§ 15.2-2259 and 15.2-2260.

B. No locality shall require that any certified check, cash escrow, bond, letter of credit or other performance guarantee furnished pursuant to this chapter apply to, or include the cost of, any facility or improvement unless such facility or improvement is shown or described on the approved plat or plan of the project for which such guarantee is being furnished. Furthermore, the terms, conditions, and specifications contained in any agreement, contract, performance agreement, or similar document, however described or delineated, between a locality or its governing body and an owner or developer of property entered into pursuant to this chapter in conjunction with any

performance guarantee, as described in this subsection, shall be limited to those items depicted or provided for in the approved plan, plat, permit application, or similar document for which such performance guarantee is applicable.

§ 15.2-2245. Provisions for periodic partial and final release of certain performance guarantees.

A. A subdivision ordinance shall provide for the periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the governing body under this article within thirty days after receipt of written notice by the subdivider or developer of completion of part or all of any public facilities required to be constructed hereunder unless the governing body or its designated administrative agency agent notifies the subdivider or developer in writing of nonreceipt of approval by an applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the thirty-day period. Any inspection of such public facilities shall be based solely upon conformance with the terms and conditions of the performance agreement and the approved design plan and specifications for the facilities for which the performance guarantee is applicable, and shall not include the approval of any person other than an employee of the governing body, its administrative agency, the Virginia Department of Transportation or other political subdivision or a person who has contracted with the governing body, its administrative agency, the Virginia Department of Transportation or other political subdivision.

B. If no such action is taken by the governing body or administrative agency designated agent within the time specified above, the request shall be deemed approved, and a partial release granted to the subdivider or developer. No final release shall be granted until after expiration of such thirty-day period and there is an additional request in writing sent by certified mail return receipt to the chief administrative officer of such governing body. The governing body or its designated administrative agency agent shall act within ten working days of receipt of the request; then if no action is taken the request shall be deemed approved and final release granted to the subdivider or developer.

C. After receipt of the written notices required above, if the governing body or administrative agency takes no action within the times specified above and the subdivider or developer files suit in the local circuit court to obtain partial or final release of a bond, escrow, letter of credit, or other performance guarantee, as the case may be, the circuit court, upon finding the governing body or its administrative agency was without good cause in failing to act, shall award such subdivider or developer his reasonable costs and attorneys' fees.

D. No governing body or administrative agency designated agent shall refuse to make a periodic partial or final release of a bond, escrow, letter of credit, or other performance guarantee for any reason not directly related to the specified defects or deficiencies in construction of the public facilities covered by said bond, escrow, letter of credit or other performance guarantee.

E. Upon written request by the subdivider or developer, the governing body or its designated administrative agency agent shall be required to make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in a cumulative amount equal to no less than ninety percent of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken, and may make partial releases to such lower amounts as may be authorized by the governing body or its designated administrative agency agent based upon the percentage of public facilities completed and approved by the governing body, local administrative agency, or state agency having jurisdiction. Periodic partial releases may not occur before the completion of at least thirty percent of the public facilities covered by any bond, escrow, letter of credit, or other performance guarantee. The governing body or administrative agency designated agent shall not be required to execute more than three periodic partial releases in any twelve-month period. Upon final completion and acceptance of the public facilities, the governing body or administrative agency designated agent shall release any remaining bond, escrow, letter of credit, or other performance guarantee to the subdivider or developer. For the purpose of final release, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and operating such public facility upon acceptance.

F. For the purposes of this section, a certificate of partial or final completion of such public facilities from either a duly licensed professional engineer or land surveyor, as defined in and limited to § 54.1-400, or from a department or agency designated by the locality may be accepted without requiring further inspection of such public facilities.

§ 15.2-2254. Statutory provisions effective after ordinance adopted.

After the adoption of a subdivision ordinance in accordance with this chapter, the following provisions shall be effective in the territory to which the ordinance applies:

1. No person shall subdivide land without making and recording a plat of the subdivision and without fully complying with the provisions of this article and of the subdivision ordinance.

2. No plat of any subdivision shall be recorded unless and until it has been submitted to and approved by the ~~local planning commission or by the governing body or its duly authorized designated agent~~, of the locality wherein the land to be subdivided is located; or by the ~~commissions, governing bodies or designated agents~~, as the case may be, of each locality having a subdivision ordinance, in which any part of the land lies.

3. No person shall sell or transfer any land of a subdivision, before a plat has been duly approved and recorded as provided herein, unless the subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto. However, nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

4. Any person violating the foregoing provisions of this section shall be subject to a fine of not more than \$500 for each lot or parcel of land so subdivided, transferred or sold and shall be required to comply with all provisions of this article and the subdivision ordinance. The description of the lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties or remedies herein provided.

5. No clerk of any court shall file or record a plat of a subdivision required by this article to be recorded until the plat has been approved as required herein. The penalties provided by § 17.1-223 shall apply to any failure to comply with the provisions of this subsection.

§ 15.2-2258. Plat of proposed subdivision and site plans to be submitted for approval.

Whenever the owner or proprietor of any tract of land located within any territory to which a subdivision ordinance applies desires to subdivide the tract, he shall submit a plat of the proposed subdivision to the ~~planning commission of the locality, or an agent designated by the governing body~~ *designated agent* thereof for such purpose. When any part of the land proposed for subdivision lies in a drainage district such fact shall be set forth on the plat of the proposed subdivision. When any part of the land proposed for subdivision lies in a mapped dam break inundation zone such fact shall be set forth on the plat of the proposed subdivision. When any grave, object or structure marking a place of burial is located on the land proposed for subdivision, such grave, object or structure shall be identified on any plans or site plans required by this article. When the land involved lies wholly or partly within an area subject to the joint control of more than one locality, the plat shall be submitted to the ~~planning commission or other~~ designated agent of the locality in which the tract of land is located. Site plans or plans of development required by subdivision A 8 of § 15.2-2286 shall also be subject to the provisions of §§ 15.2-2258 through 15.2-2261, mutatis mutandis.

§ 15.2-2259. Designated agent to act on proposed final plat.

A. 1. Except as otherwise provided in subdivisions 2 and 3, the ~~local planning commission or other~~ *designated agent* shall act on any proposed plat within 60 days after it has been officially submitted for approval by either approving or disapproving the plat in writing, and giving with the latter specific reasons therefor. The ~~Commission or~~ *designated agent* shall thoroughly review the plat and shall make a good faith effort to identify all deficiencies, if any, with the initial submission. However, if approval of a feature or features of the plat by a state agency or public

authority authorized by state law is necessary, the ~~commission or designated~~ agent shall forward the plat to the appropriate state agency or ~~agencies authority~~ for review within ~~10~~ five business days of receipt of such plat. The state agency shall respond in accord with the requirements set forth in § 15.2-2222.1, which shall extend the time for action by the ~~local planning commission or other designated~~ agent, as set forth in subsection B. Specific reasons for disapproval shall be contained either in a separate document or on the plat itself. The reasons for disapproval shall identify deficiencies in the plat that cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall identify modifications or corrections as will permit approval of the plat. The ~~local planning commission or other designated~~ agent shall act on any proposed plat that it has previously disapproved within 45 days after the plat has been modified, corrected and resubmitted for approval.

2. The approval of plats, site plans, and plans of development solely involving parcels of commercial or residential real estate by a ~~local planning commission or other designated~~ agent shall be governed by subdivision 3 and subsections B, C, and D. For the purposes of this section, the term "commercial" means all real property used for commercial or industrial uses, and the term "residential" means all real property used for single-family or multifamily use.

3. The ~~local planning commission or other designated~~ agent shall act on any proposed plat, site plan or plan of development within 60 days after it has been officially submitted for approval by either approving or disapproving the plat in writing, and giving with the latter specific reasons therefor. The ~~local planning commission or other designated~~ agent shall not delay the official submission of any proposed plat, site plan, or plan of development by requiring presubmission conferences, meetings, or reviews. The ~~Commission or designated~~ agent shall thoroughly review the plat or plan and shall in good faith identify, to the greatest extent practicable, all deficiencies, if any, with the initial submission. However, if approval of a feature or features of the plat or plan by a state agency or public authority authorized by state law is necessary, the ~~commission or designated~~ agent shall forward the plat or plan to the appropriate state agency or agencies for review within ~~10 business~~ five business days of receipt of such plat or plan. The state agency shall respond in accord with the requirements set forth in § 15.2-2222.1, which shall extend the time for action by the ~~local planning commission or other designated~~ agent, as set forth in subsection B. Specific reasons for disapproval shall be contained either in a separate document or on the plat or plan itself. The reasons for disapproval shall identify deficiencies in the plat or plan that caused the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall identify, to the greatest extent practicable, modifications or corrections that will permit approval of the plat or plan.

In the review of a resubmitted proposed plat, site plan or plan of development that has been previously disapproved, the ~~local planning commission or other designated~~ agent shall consider only deficiencies it had identified in its review of the initial submission of the plat or plan that have not been corrected in such resubmission and any deficiencies that arise as a result of the corrections made to address deficiencies identified in the initial submission. In the review of the resubmission of a plat or plan, the ~~local planning commission or other designated~~ agent shall identify all deficiencies with the proposed plat or plan that caused the disapproval by reference to specific duly adopted ordinances, regulations or policies and shall identify modifications or corrections that will permit approval of the plat or plan. Upon the second resubmission of such disapproved plat or plan, the ~~local planning commission or other designated~~ agent's review shall be limited solely to the previously identified deficiencies that caused its disapproval.

The ~~local planning commission or other designated~~ agent shall act on any proposed plat, site plan or plan of development that it has previously disapproved within 45 days after the plat or plan has been modified, corrected and resubmitted for approval. The failure of a ~~local planning commission or other designated~~ agent to approve or disapprove a resubmitted plat or plan within the time periods required by this section shall cause the plat or plan to be deemed approved.

Notwithstanding the approval or deemed approval of any proposed plat, site plan or plan of development, any deficiency in any proposed plat or plan, that if left uncorrected, would violate local, state or federal law, regulations,

mandatory Department of Transportation engineering and safety requirements, and other mandatory engineering and safety requirements, shall not be considered, treated or deemed as having been approved by the ~~local planning commission or other designated~~ agent. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission or if a material revision in the resubmission creates a new required review by the Virginia Department of Transportation or by a state agency or public authority authorized by state law, then the ~~local planning commission or other designated~~ agent's review shall not be limited to only the previously identified deficiencies identified in the prior submittals and may consider deficiencies initially appearing in the resubmission because of such material revision.

B. Any state agency or public authority authorized by state law making a review of a plat forwarded to it under this article, including, without limitation, the Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review within 45 days of receipt of the plat upon first submission and within 45 days for any proposed plat that has previously been disapproved, provided, however, that the time periods set forth in § 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public rights-of-way dedicated for public street purposes for placement of utilities by permit when practical and shall not unreasonably deny plat approval. If a state agency or public authority authorized by state law does not approve the plat, it shall comply with the requirements, and be subject to the restrictions, set forth in subsection A, with the exception of the time period therein specified. Upon receipt of the approvals from all state agencies and other agencies, the ~~local designated~~ agent shall act upon a plat within 35 days.

C. If the ~~commission or other designated~~ agent fails to approve or disapprove the plat within 60 days after it has been officially submitted for approval, or within 45 days after it has been officially resubmitted after a previous disapproval or within 35 days of receipt of any agency response pursuant to subsection B, the subdivider, after 10-days' written notice to the ~~commission, or designated~~ agent, may petition the circuit court for the locality in which the land involved, or the major part thereof, is located, to decide whether the plat should or should not be approved. The court shall give the petition priority on the civil docket, hear the matter expeditiously in accordance with the procedures prescribed in Article 2 (§ 8.01-644 et seq.) of Chapter 25 of Title 8.01 and make and enter an order with respect thereto as it deems proper, which may include directing approval of the plat.

D. If ~~a commission or other the designated~~ agent disapproves a plat and the ~~subdivider applicant~~ contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be, provided that his appeal is filed with the circuit court within 60 days of the written disapproval by the ~~commission or other designated~~ agent.

§ 15.2-2260. Localities may provide for submission of preliminary subdivision plats; how long valid.

A. Nothing in this article shall be deemed to prohibit the local governing body from providing in its ordinance for the mandatory submission of preliminary subdivision plats for tentative approval for plats involving more than 50 lots, provided that any such ordinance provides for the submission of a preliminary subdivision plat for tentative approval at the option of the landowner for plats involving 50 or fewer lots. The ~~local planning commission, or an designated~~ agent designated by the commission or by the governing body to review preliminary subdivision plats shall complete action on the preliminary subdivision plats within 60 days of submission. However, if approval of a feature or features of the preliminary subdivision plat by a state agency or public authority authorized by state law is necessary, the ~~commission or designated~~ agent shall forward the preliminary subdivision plat to the appropriate state agency or ~~agencies authority~~ for review within ~~10~~ five business days of receipt of such preliminary subdivision plat.

B. Any state agency or public authority authorized by state law making a review of a preliminary subdivision plat forwarded to it under this section, including, without limitation, the Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review within 45 days of receipt of the

preliminary subdivision plat upon first submission and within 45 days for any proposed plat that has previously been disapproved, provided, however, that the time period set forth in § 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public rights-of-way for public street purposes for placement of utilities by permit when practical and shall not unreasonably deny plat approval. If a state agency or public authority authorized by state law does not approve the plat, it shall comply with the requirements, and be subject to the restrictions, set forth in subsection A of § 15.2-2259 with the exception of the time period therein specified. Upon receipt of the approvals from all state agencies, the ~~local designated~~ agent shall act upon a preliminary subdivision plat within 35 days.

C. If a ~~commission~~ has the responsibility of review of preliminary subdivision plats and conducts a public hearing, ~~it~~ *The designated agent* shall act on the plat within 45 days after receiving approval from all state agencies. If the ~~local designated agent or commission~~ does not approve the preliminary subdivision plat, the ~~local designated agent or commission~~ shall set forth in writing the reasons for such denial and shall state what corrections or modifications will permit approval by ~~such~~ *the designated agent or commission*. With regard to plats involving commercial or residential property, as those terms are defined in subdivision A 2 of § 15.2-2259, the review process for such plats shall be the same as provided in subdivisions A 2 and A 3 of § 15.2-2259. However, no ~~commission or designated agent~~ shall be required to approve a preliminary subdivision plat in less than 60 days from the date of its original submission to the ~~commission or designated agent~~, and all actions on preliminary subdivision plats shall be completed by the ~~designated agent or commission~~ and, if necessary, state agencies, within a total of 90 days of submission to the ~~local designated agent or commission~~.

D. If the ~~commission or other designated agent~~ fails to approve or disapprove the preliminary subdivision plat within 90 days after it has been officially submitted for approval, the subdivider after 10 days' written notice to the ~~commission, or designated agent~~, may petition the circuit court for the locality in which the land involved, or the major part thereof, is located to enter an order with respect thereto as it deems proper, which may include directing approval of the plat.

E. If a ~~commission or other designated agent~~ disapproves a preliminary subdivision plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be, provided that his appeal is filed with the circuit court within 60 days of the written disapproval by the ~~commission or other designated agent~~.

F. Once a preliminary subdivision plat is approved, it shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval or such longer period as may be prescribed by local ordinance, and (ii) thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plat approval, and upon 90 days' written notice by certified mail to the subdivider, the ~~commission or other designated agent~~ may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

G. Once an approved final subdivision plat for all or a portion of the property is recorded pursuant to § 15.2-2261, the underlying preliminary plat shall remain valid for a period of five years from the date of the latest recorded plat of subdivision for the property. The five year period of validity shall extend from the date of the last recorded plat.

§ 15.2-2261. Recorded plats or final site plans to be valid for not less than five years.

A. An approved final subdivision plat which has been recorded or an approved final site plan, hereinafter referred to as "recorded plat or final site plan," shall be valid for a period of not less than five years from the date of approval thereof or for such longer period as the ~~local planning commission or other designated agent~~ may, at the time of

approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development. A site plan shall be deemed final once it has been reviewed and approved by the locality if the only requirements remaining to be satisfied in order to obtain a building permit are the posting of any bonds and escrows or the submission of any other administrative documents, agreements, deposits, or fees required by the locality in order to obtain the permit. However, any fees that are customarily due and owing at the time of the agency review of the site plan shall be paid in a timely manner.

B. 1. Upon application of the subdivider or developer filed prior to expiration of a recorded plat or final site plan, the ~~local planning commission or other~~ *designated* agent may grant one or more extensions of such approval for additional periods as the ~~commission or other~~ *designated* agent may, at the time the extension is granted, determine to be reasonable, taking into consideration the size and phasing of the proposed development, the laws, ordinances and regulations in effect at the time of the request for an extension.

2. If the ~~commission or other~~ *designated* agent denies an extension requested as provided herein and the subdivider or developer contends that such denial was not properly based on the ordinance applicable thereto, the foregoing considerations for granting an extension, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of land subject to the recorded plat or final site plan, provided that such appeal is filed with the circuit court within sixty days of the written denial by the commission or other agency.

C. For so long as the final site plan remains valid in accordance with the provisions of this section, or in the case of a recorded plat for five years after approval, no change or amendment to any local ordinance, map, resolution, rule, regulation, policy or plan adopted subsequent to the date of approval of the recorded plat or final site plan shall adversely affect the right of the subdivider or developer or his successor in interest to commence and complete an approved development in accordance with the lawful terms of the recorded plat or site plan unless the change or amendment is required to comply with state law or there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare.

D. Application for minor modifications to recorded plats or final site plans made during the periods of validity of such plats or plans established in accordance with this section shall not constitute a waiver of the provisions hereof nor shall the approval of minor modifications extend the period of validity of such plats or plans.

E. The provisions of this section shall be applicable to all recorded plats and final site plans valid on or after January 1, 1992. Nothing contained in this section shall be construed to affect (i) any litigation concerning the validity of a site plan pending prior to January 1, 1992, or any such litigation nonsuited and thereafter refiled; (ii) the authority of a governing body to impose valid conditions upon approval of any special use permit, conditional use permit or special exception; (iii) the application to individual lots on recorded plats or parcels of land subject to final site plans, to the greatest extent possible, of the provisions of any local ordinance adopted pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.); or (iv) the application to individual lots on recorded plats or parcels of land subject to final site plans of the provisions of any local ordinance adopted to comply with the requirements of the federal Clean Water Act, Section 402 (p.) of the Stormwater Program and regulations promulgated thereunder by the Environmental Protection Agency.

F. An approved final subdivision plat that has been recorded, from which any part of the property subdivided has been conveyed to third parties (other than to the developer or local jurisdiction), or a recorded plat dedicating real property to the local jurisdiction or public body that has been accepted by such grantee, shall remain valid for an indefinite period of time unless and until any portion of the property is subject to a vacation action as set forth in §§ 15.2-2270 through 15.2-2278.

§ 15.2-2269. Plans and specifications for utility fixtures and systems to be submitted for approval.

A. If the owners of any such subdivision desire to construct in, on, under, or adjacent to any streets or alleys located in such subdivision any gas, water, sewer or electric light or power works, pipes, wires, fixtures or systems,

they shall present plans or specifications therefor to the governing body of the locality in which the subdivision is located or its authorized *designated* agent, for approval. If the subdivision is located beyond the corporate limits of a municipality but within the limits set forth in § 15.2-2248, such plans and specifications shall be presented for approval to the governing body of such municipality, or its authorized *designated* agent, if the county has not adopted a subdivision ordinance. The governing body, or *designated* agent, shall have 45 days in which to approve or disapprove the same. In event of the failure of any governing body, or its *designated* agent, to act within such period, such plans and specifications may be submitted, after ten days' notice to the locality, to the circuit court for such locality for its approval or disapproval, and its approval thereof shall, for all purposes of this article be treated and considered as approval by the locality or its authorized *designated* agent.

B. Any state agency or public authority authorized by state law making a review of any plat forwarded to it under this article, including, without limitation, the Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review within 45 days of receipt of the plans, provided, however, that the time periods set forth in § 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public rights-of-way dedicated for public street purposes for placement of utilities by permit when practical and shall not unreasonably deny plan approval. If a state agency or public authority by state law does not approve the plan, it shall comply with the requirements, and be subject to the restrictions, set forth in subsection A of § 15.2-2259, with respect to the exception of the time period therein specified. Upon receipt of the approvals from all state agencies, the local *designated* agent shall act upon a preliminary subdivision plat within 35 days.

§ 15.2-2270. Vacation of interests granted to a locality as a condition of site plan approval.

Any interest in streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility granted to a locality as a condition of the approval of a site plan may be vacated according to either of the following methods:

1. By a duly executed and acknowledged written instrument of the owner of the land which has been or is to be developed in accordance with the site plan, declaring the interest or interests to be vacated, provided the governing body or authorized *designated* agent of the locality where the land lies consents to the vacation. The instrument shall be recorded in the same clerk's office wherein is recorded the written instrument describing the interest in real property to be vacated. The execution and recordation of the instrument shall operate to divest all public rights in, and to reinvest the owner with the title to the interests which formerly were held by the governing body; or

2. By ordinance of the governing body in the locality in which the property which is the subject of an approved site plan lies, provided that no interest shall be vacated in an area in which facilities, for which bonding is required pursuant to §§ 15.2-2241 through 15.2-2245, have been constructed.

The ordinance shall not be adopted until after notice has been given as required by § 15.2-2204. Any person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within thirty days of the adoption of the ordinance with the circuit court having jurisdiction of the land over which the governing body's interest is located. Upon appeal, the court may nullify the ordinance if it finds that the owner of the property, which has been developed or is to be developed in accordance with the approved site plan, will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the clerk's office of any court in which the instrument creating the governing body's interest is recorded.

The execution and recordation of an ordinance of vacation shall operate to destroy the effect of the instrument which created the governing body's interest so vacated and to divest all public rights in and to the property and vest title in the streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility as may be described in, and in accordance with, the ordinance of vacation.

§ 15.2-2271. Vacation of plat before sale of lot therein; ordinance of vacation.

Where no lot has been sold, the recorded plat, or part thereof, may be vacated according to either of the following methods:

1. With the consent of the ~~governing body, or its authorized~~ *designated* agent; of the locality where the land lies, by the owners, proprietors and trustees, if any, who signed the statement required by § 15.2-2264 at any time before the sale of any lot therein, by a written instrument, declaring the plat to be vacated, duly executed, acknowledged or proved and recorded in the same clerk's office wherein the plat to be vacated is recorded and the execution and recordation of such writing shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in, and to reinvest the owners, proprietors and trustees, if any, with the title to the streets, alleys, easements for public passage and other public areas laid out or described in the plat; or

2. By ordinance of the governing body of the locality in which the property shown on the plat or part thereof to be vacated lies, provided that no facilities for which bonding is required pursuant to §§ 15.2-2241 through 15.2-2245 have been constructed on the property and no facilities have been constructed on any related section of the property located in the subdivision within five years of the date on which the plat was first recorded.

The ordinance shall not be adopted until after notice has been given as required by § 15.2-2204. Any person may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal from the adoption of the ordinance may be filed within thirty days of the adoption of the ordinance with the circuit court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon appeal the court may nullify the ordinance if it finds that the owner of the property shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the clerk's office of any court in which the plat is recorded.

The execution and recordation of the ordinance of vacation shall operate to destroy the force and effect of the recording of the plat, or any portion thereof, so vacated, and to divest all public rights in and to the property and reinvest the owners, proprietors and trustees, if any, with the title to the streets, alleys, and easements for public passage and other public areas laid out or described in the plat.

§ 15.2-2307. Vested rights not impaired; nonconforming uses.

A. Nothing in this article shall be construed to authorize the impairment of any vested right. Without limiting the time when rights might otherwise vest, a landowner's rights shall be deemed vested in a land use and such vesting shall not be affected by a subsequent amendment to a zoning ordinance when the landowner (i) obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project, (ii) relies in good faith on the significant affirmative governmental act, and (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

B. For purposes of this section and without limitation, the following are deemed to be significant affirmative governmental acts allowing development of a specific project: (i) the governing body has accepted proffers or proffered conditions which specify use related to a zoning amendment; (ii) the governing body has approved an application for a rezoning for a specific use or density; (iii) the governing body or board of zoning appeals has granted a special exception or use permit with conditions; (iv) the board of zoning appeals has approved a variance; (v) the ~~governing body or its~~ designated agent has approved a preliminary subdivision plat, site plan or plan of development for the landowner's property and the applicant diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances; (vi) the ~~governing body or its~~ designated agent has approved a final subdivision plat, site plan or plan of development for the landowner's property; or (vii) the zoning administrator or other administrative officer has issued a written order, requirement, decision or determination regarding the

permissibility of a specific use or density of the landowner's property that is no longer subject to appeal and no longer subject to change, modification or reversal under subsection C of § 15.2-2311.

C. A zoning ordinance may provide that land, buildings, and structures and the uses thereof which do not conform to the zoning prescribed for the district in which they are situated may be continued only so long as the then existing or a more restricted use continues and such use is not discontinued for more than two years, and so long as the buildings or structures are maintained in their then structural condition; and that the uses of such buildings or structures shall conform to such regulations whenever, with respect to the building or structure, the square footage of a building or structure is enlarged, or the building or structure is structurally altered as provided in the Uniform Statewide Building Code (§ 36-97 et seq.). If a use does not conform to the zoning prescribed for the district in which such use is situated, and if (i) a business license was issued by the locality for such use and (ii) the holder of such business license has operated continuously in the same location for at least 15 years and has paid all local taxes related to such use, the locality shall permit the holder of such business license to apply for a rezoning or a special use permit without charge by the locality or any agency affiliated with the locality for fees associated with such filing. Further, a zoning ordinance may provide that no nonconforming use may be expanded, or that no nonconforming building or structure may be moved on the same lot or to any other lot which is not properly zoned to permit such nonconforming use.

D. Notwithstanding any local ordinance to the contrary, if (i) the local government has issued a building permit, the building or structure was thereafter constructed in accordance with the building permit, and upon completion of construction, the local government issued a certificate of occupancy or a use permit therefor, (ii) a property owner, relying in good faith on the issuance of a building permit, incurs extensive obligations or substantial expenses in diligent pursuit of a building project that is in conformance with the building permit and the Uniform Statewide Building Code (§ 36-97 et seq.), or (iii) the owner of the building or structure has paid taxes to the locality for such building or structure for a period of more than the previous 15 years, a zoning ordinance shall not provide that such building or structure is illegal and subject to removal solely due to such nonconformity. Such building or structure shall be nonconforming. A zoning ordinance may provide that such building or structure be brought in compliance with the Uniform Statewide Building Code, provided that to do so shall not affect the nonconforming status of such building or structure. If the local government has issued a permit, other than a building permit, that authorized construction of an improvement to real property and the improvement was thereafter constructed in accordance with such permit, the ordinance may provide that the improvements are nonconforming, but not illegal. If the structure is one that requires no permit, and an authorized local government official informs the property owner that the structure will comply with the zoning ordinance, and the improvement was thereafter constructed, a zoning ordinance may provide that the structure is nonconforming but shall not provide that such structure is illegal and subject to removal solely due to such nonconformity. In any proceeding when the authorized government official is deceased or is otherwise unavailable to testify, uncorroborated testimony of the oral statement of such official shall not be sufficient evidence to prove that the authorized government official made such statement.

E. A zoning ordinance shall permit the owner of any residential or commercial building damaged or destroyed by a natural disaster or other act of God to repair, rebuild, or replace such building to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance as provided in § 15.2-2310. If such building is damaged greater than 50 percent and cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.) and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program. Unless such building is repaired, rebuilt or replaced within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of the zoning ordinance of the locality. However, if the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions

that gave rise to the declaration, then the zoning ordinance shall provide for an additional two years for the building to be repaired, rebuilt or replaced as otherwise provided in this paragraph. For purposes of this section, "act of God" shall include any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. For purposes of this section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit an arson under § 18.2-77 or 18.2-80, and obtain vested rights under this section.

F. Notwithstanding any local ordinance to the contrary, an owner of real property shall be permitted to replace an existing on-site sewage system for any existing building in the same general location on the property even if a new on-site sewage system would not otherwise be permitted in that location, unless access to a public sanitary sewer is available to the property. If access to a sanitary sewer system is available, then the connection to such system shall be required. Any new on-site system shall be installed in compliance with applicable regulations of the Department of Health in effect at the time of the installation.

G. Nothing in this section shall be construed to prevent a locality, after making a reasonable attempt to notify such property owner, from ordering the removal of a nonconforming sign that has been abandoned. For purposes of this section, a sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two years. Any locality may, by ordinance, provide that following the expiration of the two-year period any abandoned nonconforming sign shall be removed by the owner of the property on which the sign is located, if notified by the locality to do so. If, following such two-year period, the locality has made a reasonable attempt to notify the property owner, the locality through its own agents or employees may enter the property upon which the sign is located and remove any such sign whenever the owner has refused to do so. The cost of such removal shall be chargeable to the owner of the property. Nothing herein shall prevent the locality from applying to a court of competent jurisdiction for an order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or other appropriate remedy.

H. Nothing in this section shall be construed to prevent the land owner or home owner from removing a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home. The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code. Any such replacement home shall retain the valid nonconforming status of the prior home.