



TOWN OF HAYMARKET PLANNING COMMISSION
PUBLIC HEARING/REGULAR MEETING
~ AGENDA ~

Emily Lockhart, Town Planner
<http://www.townofhaymarket.org/>

15000 Washington Street, Suite 100
Haymarket, VA 20169

Monday, August 16, 2021

7:00 PM

Council Chambers

I. Call To Order

II. Pledge of Allegiance

III. Notice of Public Hearing

A. Crossroads Village Center Special Use Permit Public Hearing

1. Notice of Publication

IV. Citizens Time

V. Minute Approval

1. Planning Commission - Regular Meeting - Jul 19, 2021 7:00 PM

VI. Agenda Items

A. ZTA - Final Draft

1. Authorize for Public Hearing

2. ZTA - Final Draft

B. Crossroads Village Center Special Use Permit

1. Crossroads Village Center Special Use Permit SUP2021-003

VII. Old Business

VIII. New Business

IX. Architectural Review Board Updates

X. Town Council Updates

XI. Adjournment

**NOTICE OF PUBLIC HEARING
PLANNING COMMISSION
TOWN HALL, 15000 WASHINGTON STREET, ST. 100
HAYMARKET VA 20169
Monday, August 16, 2021 at
7:00 pm**

Notice is hereby given that the Haymarket Planning Commission will conduct a public hearing for a Special Use Permit at 15150 Washington Street for a Drive-Thru Coffee Shop Restaurant Use by special use permit. All interested parties are encouraged to present their views at this hearing. The public hearing will be held on Monday, August 16, 2021, beginning at 7:00 p.m. at the Haymarket Town Hall, 15000 Washington Street, Suite 100, Haymarket, Virginia.

All are invited to attend the Public Hearing at the time and place described above and present their views pertinent to the requested Special Use Permit. Public comments can also be mailed to 15000 Washington Street, Suite 100, Haymarket, Virginia, 20169, or submitted via email to khenry@townofhaymarket.org. A complete copy of the application for the Special Use Permit is available for public inspection during normal business hours at the Town Planner's Office of the Town of Haymarket immediately upon the advertising of this notice, The Public Hearing is being held in a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility to the facility should contact the Clerk of the Council at the above address or by telephone at (703) 753-2600.

BY ORDER OF THE HAYMARKET PLANNING COMMISSION

Instruction to Publisher:

Run This Notice Twice: July 28th and August 4th



TOWN OF HAYMARKET PLANNING COMMISSION

REGULAR MEETING ~ MINUTES ~

Emily Lockhart, Town Planner
<http://www.townofhaymarket.org/>

15000 Washington Street, Suite 100
Haymarket, VA 20169

Monday, July 19, 2021

7:00 PM

Council Chambers

A Regular Meeting of the Planning Commission of the Town of Haymarket, VA, was held this evening in the Council Chambers, commencing at 7:00 PM.

Chairman Matt Caudle called the meeting to order.

I. Call to Order

Chairman Matt Caudle: Present, Councilman Bob Weir: Present, Commissioner Robert Hallet: Present, Commissioner Alexander Beyene: Present.

II. Pledge of Allegiance/Moment of Silence

Chairman Matt Caudle invited everyone to stand for the Pledge of Allegiance followed by a moment of silence.

III. Citizens' Time

There were no citizens present at this meeting.

IV. Minute Approval

1. Planning Commission - Work Session - Jun 21, 2021 6:00 PM

Councilman Weir moved to approve the Planning Commission Work Session minutes for June 21, 2021 as presented. Commissioner Beyene seconded the motion. The motion carried.

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Bob Weir, Councilman
SECONDER:	Alexander Beyene, Commissioner
AYES:	Matt Caudle, Bob Weir, Robert Hallet, Alexander Beyene

2. Planning Commission - Regular Meeting - Jun 21, 2021 7:00 PM

Councilman Weir moved to approve the Planning Commission Regular Meeting minutes from June 21, 2021 as presented. Commissioner Hallet seconded the motion. The motion carried.

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Bob Weir, Councilman
SECONDER:	Robert Hallet, Commissioner
AYES:	Matt Caudle, Bob Weir, Robert Hallet, Alexander Beyene

V. Agenda Items

1. Planning Commission Chair Appointment

Town Planner Emily Lockhart shared that every July the Planning Commission appoints a new chairperson to run the meetings for that fiscal year. At this time, Chairman Caudle stated that he would not be interested in holding the chairperson seat for the year.

2. Motion to appoint Chairman

Commissioner Hallet moved to appoint Alexander Beyene as chairman. Councilman Weir seconded the motion. With no other nominations, the motion carried by roll call vote.

Minutes Acceptance: Minutes of Jul 19, 2021 7:00 PM (Minute Approval)

RESULT:	ADOPTED [3 TO 1]
MOVER:	Robert Hallet, Commissioner
SECONDER:	Bob Weir, Councilman
AYES:	Bob Weir, Robert Hallet, Alexander Beyene
NAYS:	Matt Caudle

3. Motion to appoint a Vice Chairman

Commissioner Caudle moved to nominate Rob Hallet as the Vice Chairman. Councilman Weir seconded the motion. With no other nominations, the motion carried by a roll call vote.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Matt Caudle, Chairman
SECONDER:	Bob Weir, Councilman
AYES:	Matt Caudle, Bob Weir, Robert Hallet, Alexander Beyene

4. Zoning Text Amendment DRAFT Discussion

Town Planner Emily Lockhart stated that she included the entire working draft of the zoning text amendment to the agenda for everyone to review. Ms. Lockhart picked up with updating information to religious assemblies, information on sign ordinances and a presentation from Intern Samantha Lewis on a new zoning ordinance format that would make referencing more user friendly. Ms. Lewis provided information to the Planning Commission on the research she did on defining religious assembly. Ms. Lewis stated that the Town Attorney recommended changing religious assembly to public assembly. The definition for public assembly was given. A discussion followed on the recommendation from the Attorney. Town Planner Lockhart stated that the staff will revisit the definition and make the necessary edits.

Ms. Lockhart also asked for the Planning Commission to discuss minimum lot sizes and general regulations in the R-2 District. She stated that the old text was unclear on the type of house allowed, the different lot sizes and setbacks within the district. She stated that it was very confusing for developers on what was allowed and the area regulations. Ms. Lockhart stated that Ms. Lewis did extensive research and provided consolidated information/ A discussion followed on the subject.

There was also a discussion on the population threshold of the Town and the responsibility that the Town would incur once that threshold has been reached. The discussion continued on empty parcels and the potential of meeting that threshold.

Intern Samantha Lewis presented the changes to the sign ordinance. Ms. Lewis showed a chart that would address the size of signs. There was a question on the parasail signs in the Town. Ms. Lewis stated that she added that type of sign as a prohibited sign. There was also a discussion on directional signs. Ms. Lockhart showed a map of color that would show the gateway area, residential area and the core commercial area that would regulate the sign ordinance.

The Planning Commission went over the Special Use Permit application and process. Ms. Lockhart went over some edits that she and Ms. Lewis made and requested the Commission to review and make any suggested edits one week prior to the August meeting so that a completed draft would be available to final review so that the Planning Commission could set a public hearing date.

5. Historic Overlay Map DRAFT Discussion

Town Planner Emily Lockhart provided a draft of the historic overlay map. Ms. Lockhart stated that after several discussions in previous Planning Commission and Town Council meetings, the staff drafted a historic district map to show the Planning Commission to consider. Ms. Lockhart stated that with setting the historic structure as being built before 1950 will better define and update the historic structures list. She also stated that there may be some buildings that are dated after the 1950 era but are in the same section of the area that the Town would like to preserve as a historic district and falls along the main corridor of the Town. Ms. Lockhart asked that the Commission review and bring any edits to the August meeting so that this would be included in the public hearing as well as an appendix to the Zoning Ordinance.

VI. Old Business

1. Development Projects Update

Town Planner Emily Lockhart gave updates on several land development projects within the Town.

VII. New Business

1. Upcoming SUP Application: Starbucks SUP, New App, 7-12-2021

Town Planner Emily Lockhart stated that Crossroads Village was denied the SUP for Starbucks at the Town Council level. She shared that a new application has been submitted. She shared that the design was significantly altered and will be coming back before the Planning Commission for a public hearing at the August meeting.

VIII. Architectural Review Board Update

Town Planner Emily Lockhart stated that since Commissioner Kharel's term expired and is no longer serving a new liaison to the Architectural Review Board. Ms. Lockhart also shared that there has been someone interested in filling the Planing Commission vacancy.

After the appointment of Mr. Hallet to the ARB, Ms. Lockhart gave the ARB updates and information regarding an item before the ARB at their next meeting.

1. Motion to appoint PC liaison to ARB

Councilman Weir nominated Commissioner Hallet as the liaison to the ARB. Mr. Hallet accepted the nomination. There was no second for the nomination. However, the nomination passed unanimously by a roll call vote.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bob Weir, Councilman
AYES:	Matt Caudle, Bob Weir, Robert Hallet, Alexander Beyene

IX. Town Council Update

Councilman Weir gave the Town Council updates. Mr. Weir stated that the Town Council will be filling the Planning Commission vacancy at their August meeting. He also shared the appointment of Mary Ramirez to the Town Council. Mr. Weir also shared that the Police Department is back to full coverage.

X. Adjournment

With no further business before the Planning Commission, Councilman Weir moved to adjourn with a second by Commissioner Hallet. The motion carried.

1. Motion to Adjourn

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bob Weir, Councilman
SECONDER:	Robert Hallet, Commissioner
AYES:	Matt Caudle, Bob Weir, Robert Hallet, Alexander Beyene

Submitted:

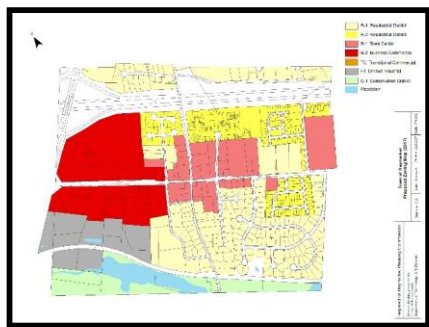
Approved:

Kimberly Henry, Clerk of the Council

Matt Caudle, Chairman

Minutes Acceptance: Minutes of Jul 19, 2021 7:00 PM (Minute Approval)

Town of Haymarket Zoning and Subdivision Ordinance



April 6, 2017



Town of Haymarket
15000 Washington Street, #100
Haymarket, VA 20169
703-753-2600

Attachment: 8.04 ZTA Updates_Strikethroughs (5156 : ZTA - Final Draft)

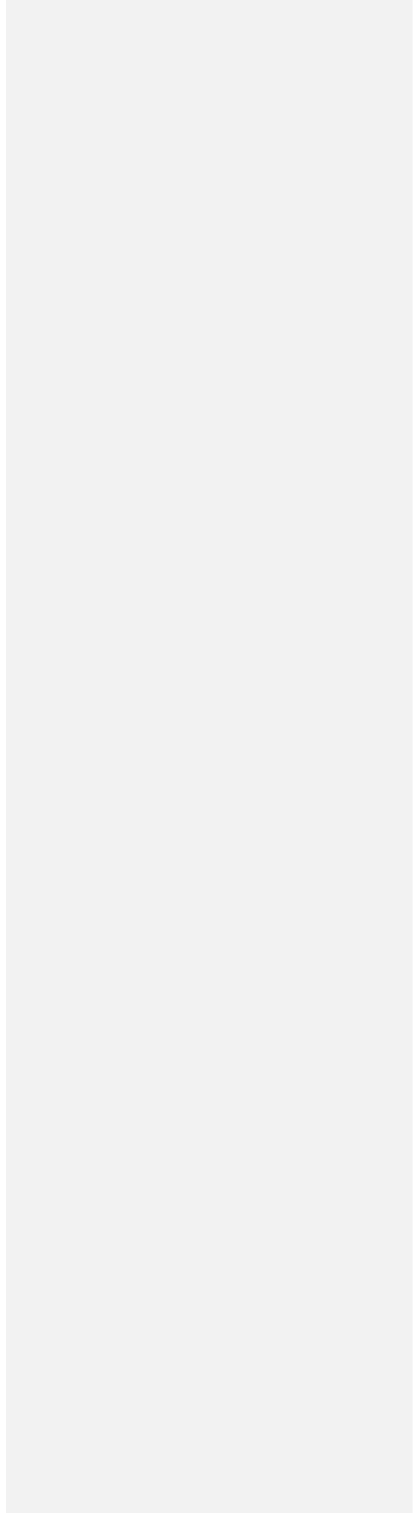
[Table of Contents will be replaced]

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Attachment: 8.04 ZTA Updates_Strikethroughs (5156 : ZTA - Final Draft)

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Attachment: 8.04 ZTA Updates_Strikethroughs (5156 : ZTA - Final Draft)

~~Chapter 58~~ **ZONING ORDINANCE & SUBDIVISIONS**

ARTICLE I - IN GENERAL

Sec. 58-1.1 – Introduction

~~The Town of Haymarket's Comprehensive Plan embodies the community's vision and goals.~~ Two primary mechanisms for achieving the Town's land use goals are the zoning and subdivision ordinances. The zoning ordinance sets forth the regulations that legally enforce land use policies and establishes the rules guiding the development of land within the town. Similarly, the subdivision ordinance establishes the rules by which land can be divided, often setting the stage for subsequent development under the zoning regulations. These two land use tools work hand in hand to help achieve the Town's vision regarding land use and the overall well-being of the community.

Sec. 58-1.2 - Purpose

To promote the health, safety or general welfare of the public and further accomplish the objectives of the Code of Virginia, § 15.2-2200, this chapter is adopted as the zoning ~~and subdivision~~ ordinance of the Town, together with the zoning map. This chapter has been designed to:

- Provide for adequate light, air, convenience of access, and safety from fire, flood, crime and other dangers;
- ~~Reduce or prevent congestion in the public streets;~~
- Facilitate the creation of a convenient, attractive and harmonious community;
- Facilitate the provision of adequate police and fire protection, ~~transportation, parks, streets and streets,~~ disaster evacuation, ~~water, sewerage, flood protection, parks,~~ civil defense, ~~transportation, water, sewerage, flood protection, schools, streets, parks, forests, playgrounds, recreational facilities, airports~~ and other public requirements ~~and amenities;~~
- Protect against ~~the~~ destruction of or encroachment upon historic areas;
- Protect against one or more of the following:
 - Overcrowding of land;
 - Undue density of population in relation to the ~~available or existing~~ community facilities ~~existing or available;~~
 - Obstruction of light and air;
 - ~~Danger and congestion in travel and transportation;~~ or
 - Loss of life, health or property from fire, flood, panic or other dangers;
- Encourage economic development activities that provide desirable employment and ~~support enlarge~~ the tax base;
- Provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment; and
- Promote creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated.

Footnotes:

~~---(1)---~~

~~Editor's note—The zoning map is located in the Town Hall and is not included in this chapter.~~

Sec. 58-1.3 - Applicability
This chapter is applicable to all lands within the Town of Haymarket and the superjacent airspace of privately-owned land pursuant to the Code of Virginia §15.2-2293.

Sec. 58-1.4- Uses not Specified or Prohibited
Except as otherwise expressly provided herein, this chapter shall be deemed exclusive in nature, and only those uses specified shall be permitted in the various zoning districts. If a use is not specified in a zoning district, it shall be prohibited in that district. In the event that a use is not permitted in any zoning district, it may only be permitted after appropriate amendment to the text of this chapter.

Sec. 58-1.5 – Establishment of Districts
Pursuant to §15.2-2280 of the Code of Virginia, the incorporated area of the Town is hereby divided into the following districts and further described in the following sections:

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Residential R-1. The residential district R-1 is composed of quiet, low-density single family homes. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to minimize activities of a commercial nature. Development is limited ~~basically to~~ detached single-unit dwellings ~~providing homes for the residents~~ plus certain additional uses such as public ~~amenities facilities~~ that serve the residents of the district.

Residential R-2. The residential district R-2 is intended for use within those areas near the central core of the Town. This district should provide a suitable environment for families and persons seeking the amenities and convenience of townhouse living, or as an option, ~~smaller small lot~~ detached single-family lots or conventional single-family lots without fear of encroachment or dissimilar uses. This district is designed to stabilize, protect and promote this type of development.

Town Center B-1. The Town Center District, B-1, provides primarily for ~~commercial retail shopping~~ and personal services to be developed either as a unit or in individual parcels oriented to attracting pedestrian shoppers, tourism and local convenience. Recognizing the economic value of the existing historical area, it shall further be the intent of the district to encourage the retention and rehabilitation of structures and uses in the district that have historic and/or architectural significance. The range, size, hours of operation, lighting, signs and other developmental aspects of permitted uses may be limited in order to enhance the general character and ~~maintain the~~ historic nature of the district.

Business Commercial B-2. The primary purpose of the business commercial district B-2 is to concentrate businesses in a coordinated manner and to provide for more intense commercial ~~and industrial~~ uses away from the Town center. Commercial uses located in this district, while traditionally being oriented to automobile traffic, are intended to have a sufficiently high standard in site layout, design and landscaping to minimize traffic congestion on accessory roadways and minimize the impact of the high volume of traffic at an interchange with adjacent land uses.

Transitional Commercial TC. The primary purpose of this district is to create a low-intensity office, commercial and mixed use area as a transition between residential and commercial areas. The uses in the district should buffer residential areas from the commercial core by minimizing traffic, lighting and hours of operation, by establishing buffers and by establishing other site specific development standards to minimize the impact on adjacent residential uses. To enhance its compatibility with its residential surroundings, any development should be located in existing buildings wherever possible. Adaptive reuse of existing structures is to be encouraged if impacts are mitigated.

Limited Industrial I-1. The primary purpose of the limited industrial district I-1 is to permit certain industries, which do not in any way detract from residential desirability. The limitations on (or provisions relating to) height of building, horsepower, heating, flammable liquids or explosives, controlling emission of fumes, odors, and/or noise, landscaping, and the number of persons employed are imposed to protect and foster adjacent residential desirability while permitting industries to locate near a labor supply and demand base.

Conservation C-1. The primary purpose of the conservation district C-1 is to limit development in areas of poor soil, steep slope and proneness of flooding.

ARTICLE II - DEFINITIONS

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning. Where terms are not defined, they shall have their ordinarily accepted meaning, or such as the context may imply.

Generally, the words "used for" include "designed for," and vice versa; the word "building" includes the word "structure"; the word "dwelling" includes the word "residence"; and the word "lot" includes the word "plot." Any words pertaining to gender shall be interchangeable. The word "he" shall mean "she," and "she" shall mean "he." The word "shall" is mandatory; the word "may" is permissive.

Accessory apartment

A separate, independent dwelling unit located on the same property as the primary dwelling unit or a portion of a structure designed as a dwelling unit, and ancillary to the principal use of the structure, subject to one of the following:

- a. A dwelling unit contained within a single-family dwelling that may equal the existing finished square footage of the primary dwelling, such as a basement, attic, or additional level; or,
- b. A dwelling unit attached to the primary single-family dwelling, or as a dwelling unit located above a detached accessory unit; that shall be no more than one half the size of the finished square footage of the primary dwelling unit located on the subject property.
- c. A dwelling unit as ancillary use on the second floor of structures designed for other commercial uses; not more than 40 percent of the gross floor area of any structure may be devoted to apartment use

Occupancy of such accessory apartments shall be limited to no more than one family (as defined) and shall not be rented in less than six month increments, and the primary dwelling unit must be occupied by the owner of the subject property or an immediate family member (as defined).

Accessory use or structure

A use or structure which is clearly subordinate and customarily incidental to the main use or structure that it is accessory to and located upon the same lot occupied by the main use or structure.

Access-way, private

A semi-public ingress and egress easement dedicated to one or more lots at the time of subdivision for pedestrian and vehicle access to a public street. Any such easement shall be maintained by its supporting lots as set out in this chapter.

Addition

Any increase to the gross floor area of a structure.

Administrator

Also referred to as the Zoning Administrator; The official charged with the enforcement of the subdivision and zoning ordinances

Affordable housing

Housing that is affordable to families with incomes at or below 80% of the area median income, provided that the individual pays no more than 30% of his or her gross income for gross housing costs, including utilities.

Aggrieved person

A person or group of people with an immediate, pecuniary and substantial interest in an action taken by the administrator or board of zoning appeals under this ordinance, as opposed to remote or indirect interest. A person is also aggrieved if the person suffers a denial of some personal or property right or imposition of a burden or obligation different from that suffered by the public in general.

Alley

A permanent service way providing a secondary means of access to abutting properties.

Alteration

Any change in the floor area, use, adaptability or external appearance of an existing structure.

Alternative tower structure

Man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Amateur radio antenna

Pursuant to all conditions set forth in the Code of Virginia, §15.2-2293.1, an accessory structure on which an antenna is installed for the purpose of transmitting and receiving amateur radio signals erected and operated by an amateur radio operator licensed by the FCC.

Antenna

Any exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of electromagnetic waves.

Applicant

Any person submitting any application required or permitted pursuant to any of the provisions of this chapter, including his successors and assigns.

Architectural features

Pieces or portions of a building that are utilized primarily for aesthetic purposes such as, but not limited to, bay windows, porches, porticoes, balconies, chimneys, eaves and cornices, basement walk ups, and flower boxes.

Assisted living facility

A non-medical residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance for the care of individuals who are aged, infirm or disabled.

A facility in which no more than eight aged or infirm individuals reside shall be considered as residential
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A facility in which no more than eight aged or infirm individuals reside shall be considered as residential
A facility in which no more than eight aged or infirm individuals reside shall be considered as residential occupancy by a single family.

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Automobile graveyard

Any lot, place or parcel, except lawful motor vehicle repair or service facility, upon which five or more inoperative motor vehicles of any kind are found.

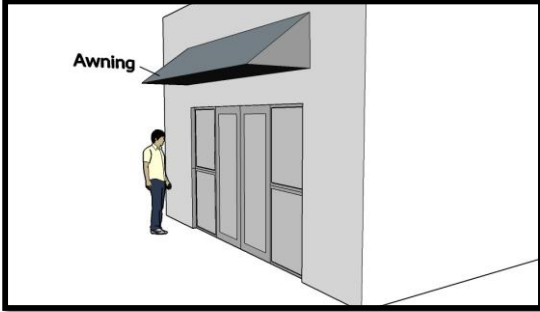
Junkyard; Salvage and scrap service.
Junkyard; Salvage and scrap service.

Automobile rental/leasing

Rental of automobiles, light trucks and vans, including incidental parking and servicing of vehicles for rent or lease. Typical uses include auto rental agencies and taxicab dispatch areas.

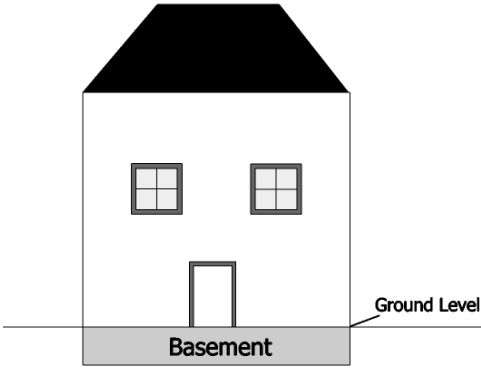
Awning

A shelter constructed of rigid or nonrigid materials on a supporting framework, either freestanding, or projecting from and supported by an exterior wall of a building. Sometimes referred to as a canopy.



Basement

Any floor at least half of which is subgrade (below ground level). A basement shall be counted as a story for the purpose of height regulations.



Bed and breakfast

A dwelling in which not more than twelve bedrooms are provided for overnight guests for compensation, on a daily or weekly basis, with or without breakfast. The serving of meals other than breakfast, or the serving of breakfast to other than overnight guests, shall be considered a Restaurant.

Bee

Apis mellifera and genetic variations thereof, at any living stage; and may include other hymenopterous insects that depend on pollen and nectar for food.

Commented [1]: New definition

Bikeway

A bicycle pathway; either a bike lane, a bike trail, or bike route.

Board of Zoning Appeals

Also referred to as the BZA; The term refers to the Town of Haymarket Board of Zoning Appeals.

Boundary line adjustment

The adjustment of the boundary line between two or more lots, or the vacation of a lot line for the purpose of combining two or more lots, but not including any action which would result in a creation of additional building lots or the vacation of any street, alley, easement for public passage, or other public feature.

Brewery or Distillery

The use of land, licensed by the Commonwealth of Virginia, where beer or spirits are manufactured for sale. Consumption on the premises is permitted as an accessory use.

Broadcasting or communication tower

Any unstaffed facility for the transmission and/or reception of radio, television, radar, cellular telephone, personal paging device, specialized mobile radio (SMR), and similar services. A broadcasting or communication tower usually consists of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission or reception devices or antenna. Excluded are Amateur radio towers, which are described separately, Data centers which are described separately, and wireless communication antennas which fit the definition of Utility services, minor.

Attachment: 8.04 ZTA Updates_Strikethroughs (5156 : ZTA - Final Draft)

Buffer yard

A yard with screening and landscaping materials required between abutting zoning districts of differing intensities or between adjoining land uses for the purpose of decreasing the adverse impact of differing uses and districts.

Building

Any structure having a roof supported by columns or walls, for the shelter, housing or enclosure of any individual, animal, activity, process, equipment, goods, or materials of any kind.

Building, accessory

A subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such accessory structure shall be used for housekeeping purposes.

Building, face

Any one of the four principal exposures, front, sides or back, of a building. For purposes of sign regulations, the face of a building is that portion exposed to a street, alley, or lot and is measured at a ground level on a linear basis from exposed corner to exposed corner.

Building, height of
see **Height, building.**

Building line or setback line

A line that establishes the area within which the principal building or structure must be erected or placed and which may be located by means of a plat of subdivision or site plan at a distance greater than, but in no case less than, the minimum setbacks or yard spaces required by the zoning ordinance. Bay windows, porches, balconies, chimneys, eaves, basement walk ups, and similar architectural features may project two feet into any required setback or building restriction line. Setback and building restriction lines shall not apply to terraces, patios, and unroofed porches on ground level.

Building, main

The principal structure or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

Building official

The representative of the council who has been appointed to administer and enforce, within the town, the provisions in the Uniform Statewide Building Code.

Building permit

A document issued by the building official granting permission to another person to construct, extend, repair, remove or alter a structure.

Building setback
see **Setback.**

Short Term Rental, Residential (STRR)

An owner occupied, residential dwelling unit that is used for paid, overnight accommodations for a minimum of 2 nights, but not to exceed 30 days. The frequency and volume of paying guests is intended to be incidental to the primary use of the property as a private residence. All standards for this use shall be met as set forth in Article 000 Sec 00000. This use type does not include bed-and-breakfast.

Business support service

Commented [3]: New definition

11

Establishment or place of business engaged in the sale, rental or repair of office equipment, supplies and materials, or the provision of services used by office, professional, and service establishments. Typical uses include office equipment and supply firms, small business machine repair shops, convenience printing and copying establishments, as well as temporary labor services.

Caliper

The diameter of the trunk of a tree at the height of 4.5 feet above grade.

Car wash

Washing and cleaning of vehicles. Typical uses include automatic conveyor machines and self-service car washes.

Commercial, Catering

Preparation of food and related materials for a special event, occasion, or other temporary contract, which are to be delivered to a location other than where prepared.

Cellar

see **Basement**.

Cemetery

A place where human remains are interred, above or below ground, and where plots are sold for that purpose, and care of the graves is furnished.

Central sewage system

Any system of collection and treatment of sewage, as defined by rules and regulations of the state board of health governing the disposal of sewage, serving two or more connections, whether the system is privately or publicly owned and operated.

Central water

Any water supply and distribution system, whether privately or publicly owned and operated, serving two or more individual connections.

Chicken Coop

A fully enclosed and covered hen house providing predator resistant shelter that is thoroughly ventilated, provides adequate sun and shade, protection from the seasonal elements, and designed to be easily accessed and cleaned where domestic chickens live.

Commented [4]: new

Chicken Run

An outdoor enclosed or fenced structure where chickens feed or exercise. This structure is attached to the chicken coop.

Commented [5]: New

Civic use

Public parks and playgrounds, public schools, municipal buildings including police, fire and rescue facilities, and all other publicly owned structures.

Clerk

the clerk of the circuit court of the county.

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Clinic

A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis, including emergency treatment, diagnostic services, training, administration and services to outpatients, employees, or visitors. The term "clinic" includes immediate care facilities, where emergency treatment is the dominant form of care provided at the facility.

Club

A use providing educational, meeting, or social facilities for civic or social clubs, fraternal/sororal organization, and similar organizations and associations, primarily for use by members and guests. Recreational facilities, unless otherwise specifically cited in this section, may be provided for members and guests as an accessory use. A Club does not include a building in which members reside.

Code

The Code of the Town of Haymarket Virginia.

Code of Virginia

The Code of Virginia of 1950, as it may be amended from time to time.

Commercial, Entertainment

Predominantly spectator uses conducted within an enclosed building. Typical uses include, but are not limited to, motion picture theaters, museums, and concert , music, or performance halls.

Commented [6]: Getting into gambling/games territory with this definition

Commercial, Recreation

A sports or activity facility open to the general public for a fee. Typical indoor uses include, but are not limited to, ice skating rink, roller skating rink, bowling alley, billiard hall, swimming pool, bingo hall, shuffleboard hall, arcade (video, pinball), hard and soft courts, miniature golf, squash court, tennis court, or racquetball court. Outdoor uses include driving ranges, miniature golf, batting cages, swimming pools, tennis courts, outdoor racquetball courts, motorized cart and motorcycle tracks, paintball facilities, equestrian facilities, pony rides, and motorized model airplane flying facilities.

Commercial, Vehicle Repair Service

Repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, including the sale, installation, and servicing of equipment and parts. Typical uses include tire sales and installation, wheel and brake shops, oil and lubrication services, and similar repair and service activities where minor repairs and routine maintenance are conducted.

Commercial, Heavy Equipment Repair Service

Repair of construction equipment, commercial trucks, agricultural equipment, and similar heavy equipment, where major repairs are conducted.

Commercial Vehicle

Any vehicle used for commercial purposes, regardless of capacity, which displays advertising thereon; or which is licensed as a "for hire" vehicle; or any limousine used as a common or contract carrier. Commercial vehicles shall not be deemed to include any of the following: police vehicle; emergency vehicle; school bus.

Commented [7]: New definition

Commission

The Planning Commission of the Town of Haymarket.

Common area

A tract or parcel of land not devoted to residential uses or structures; but directly related to and adjunct to a planned development, cluster development, or subdivision and which is owned and/or controlled by the residents or owners of such development.

Condominium

see Multi-family dwelling.

Conservation easement

The granting of a property's development rights to an agency that stipulates that the described land will remain in its natural state and precludes future or additional development.

Retail, Construction

Establishment or place of business primarily engaged in retail or wholesale sales of materials used in the construction of buildings or other structures, but specifically excluding automobile or equipment supplies otherwise classified herein. Typical uses include building material stores, lumber yard, and home supply establishments with products on site.

Construction yard

Establishment or place of business primarily engaged in construction activities, including outside storage of materials and equipment. Typical uses are building contractor's yards.

Continuing Care Facility

A facility providing a graduated range of services to elderly and handicapped persons, from independent living facilities to congregate housing facilities within which are available meal preparation, laundry and cleaning services; providing common recreation and service facilities for the exclusive use of all residents of the center; may include assisted living, nursing or convalescent care and other medical facilities.

Coverage

The area of a lot occupied by structures, off-street parking, driveways, outside storage, or any other improvements not considered open space.

Cul-de-sac

a street with one outlet and with an appropriate turnaround for safe and convenient reverse traffic movement.

Custom manufacturing

Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving the use of hand tools, or the use of mechanical equipment commonly associated with residential or commercial uses, or a single kiln.

Commented [8]: studio/gallery, retail sales as accessory use

Data Center

Shall mean a use involving a building/premise in which the majority of the use is occupied by computers and/or telecommunications and related equipment, including supporting equipment, where information is processed, transferred and/or store; minimum 20 acres.

Commented [9]: New. PWC definition

Day care center

Any facility operated for the purpose of providing care, protection, and guidance to 10 or more individuals during only part of a 24-hour day. This term includes nursery schools, preschools, day care centers for individuals including adults, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

Deck

A structure, without a roof, directly adjacent to a principal building, which has an average elevation of 30 inches or greater from finished grade. Residential decks over 36 inches above grade may project ten feet into the rear yard setback, and decks less than 36 inches above grade may project 15 feet into the rear yard setback. A deck may be constructed of any materials.

Dedication

The transfer of private property to public ownership upon written acceptance.

Developer

see Applicant.

Development

Any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

District

A district as referred to in Code of Virginia, § 15.2-2282

Dog day care center

A facility operating with the primary purpose of providing dog day care and grooming with ancillary services of overnight boarding and/or training. The facility will limit the number of dogs to 85 that can be cared for overnight. The facility must have incorporated sound proofing technologies/building materials that provides a NRC (Noise Reduction Coefficient) rating of .80 or better.

Commented [10]: different than kennel?

Domestic Chicken

A domesticated bird of the species gallus gallus domesticus.

Commented [11]: new. manassas city

Dwelling

Any structure which is designed with dwelling units for residential purposes. This definition does not include hotels, boarding houses, lodging houses, tourist cabins, recreational vehicles, and mobile

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homes.

Dwelling, multi-family

A building or portion thereof which contains three or more dwelling units for permanent occupancy. The units may be individually owned or offered for rent. Each unit shall be accessed from the outside from a common hallway, stairs, or elevator. Such units may be stacked or adjacent to one another. Included in the use type are garden apartments, low and high rise apartments, apartments for elderly housing, and condominiums.

Commented [12]: Edited



Dwelling, Single-Family Attached

Dwelling, single-family detached

A site built or modular building designed for or used exclusively as one dwelling unit for permanent occupancy, which is surrounded by open space or yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means.

Dwelling, townhouse

A grouping of three or more attached single-family dwellings each on its own individual lot in which each unit has its own front and rear access to the outside. No units are vertically stacked, no unit is located over another unit, and each unit is separated from any other unit by one or more common walls.

Commented [13]: edited

Dwelling unit

A room or group of rooms connected together containing cooking, bathroom and sleeping facilities constituting a separate, independent housekeeping unit, physically separated from any other dwelling unit in the same structure.

Easement

A right of the owner of one parcel of land, by reason of such ownership, to use the land of another for a special purpose not inconsistent with a general property in the owner.

Commented [14]: per Martin. Black's Law Dic definition

Educational facility, college/university

An educational institution authorized by the Commonwealth of Virginia to award associate, baccalaureate or higher degrees, and facilities associated with it. This term includes academic buildings, administrative facilities, dormitories, special housing, parking areas, dining halls, and other physical plants associated with the college or university use.

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Educational facility, primary/secondary

A public, private or parochial school offering instruction at the elementary, junior, and/or senior high school levels in the branches of learning and study required to be taught in the public schools of the Commonwealth of Virginia.

Emergency shelter

A facility providing temporary housing for one or more individuals who are otherwise temporarily or permanently homeless.

Engineer

an engineer licensed by the Commonwealth of Virginia.

Retail, Equipment sales and rental

Establishments primarily engaged in the sale or rental of tools, trucks, tractors, construction equipment, agricultural implements, and similar industrial equipment, and the rental of mobile homes. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

Establishment

Any entity or individual conducting a business, profession, or trade; and any entity or individual conducting a civic, community service, or nonprofit activity.

Façade

An entire outside wall of a structure, including wall faces, parapets, fascia, windows, and doors, of one complete elevation.

Family

Any number of persons living together as a single housekeeping unit consisting of:

Family shall mean a group of people living together as a single housekeeping unit and consisting of:

- (1) One person; or
- (2) Two or more persons related by blood, adoption, or marriage, together with any number of offspring, foster, step or adopted children; or
- (3) A group of not more than four (4) unrelated persons living and cooking together as a single housekeeping unit though not related by blood, marriage, adoption or guardianship, provided that the limitation on the number of unrelated persons shall not apply to residents in a housekeeping unit by persons having handicaps within the meaning of section 3602(f) of the Fair Housing Act (42 USC 3601, et seq., as amended); or
- (4) Those groups identified in Code of Virginia, § 15.2-2291, or like groups licensed by the Virginia Department of Social Services which otherwise meet the criteria of Code of Virginia, § 15.2-2291.

Commented [15]: new. PWC

Family day home

A single-family dwelling in which more than five but fewer than 13 individuals are received for care, protection, and guidance during only part of a twenty-four hour day. Individuals related by blood, legal adoption, or marriage to the person who maintains the home shall not be counted towards this total. The care of 5 or fewer individuals for portions of a day shall be considered as a Home occupation.

Family health care structure, temporary

Pursuant to all conditions set forth in the Code of Virginia §15.2-2292.1, a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation; (ii) is limited to one individual

who shall be the mentally or physically impaired person or, in the case of a married couple, two individuals, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living as defined in §63.2-2200, as certified in writing by a physician licensed in the Commonwealth; (iii) has no more than 300 gross square feet; and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§36-70 et seq.) and the Uniform Statewide Building Code (§36-97 et seq.).

Farmer's market

Retail sale of fresh fruits and vegetables, and other food and related items, at a facility with spaces occupied by several different temporary tenants for no more than six (6) hours on a weekly basis; indoor or outdoor.

Fence

A freestanding structure of metal, masonry, composition, vinyl or wood, or any combination, resting on or partially buried in the ground and rising above ground level, with posts at regular intervals, and used for confinement, screening, or partition purposes.

Financial institution

An establishment whose principal purpose is the provision of financial services, including but not limited to an insured depository institution, a credit union, a Federal home loan bank, a small business investment company, a depository institution holding company, a mortgage lending business, or other institutions as defined by Federal code.

Flag lot

see Lot, pipestem.

Floodplain

An area flooded by a flood of specific frequency or magnitude, which has been delineated as a regulated area by federal, state or local government order through the use of maps, flood elevations, flood profiles or other techniques.

Floor area ratio (FAR)

The ratio of gross floor area of all structures on a lot to total lot area.

Floor area, gross

The sum of the horizontal areas of the several stories of a building, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the centerline of such a common wall. Gross floor area shall exclude basements and attics. The surface area of tennis courts, swimming pools, driveways, surface parking spaces, decks, patios, and porches, is not included in the total gross floor area.

Frontage

The side of a lot abutting on a street or right-of-way and ordinarily regarded as the front of the lot. For corner lots, only the side containing the parcel or building's main entrance shall be considered the frontage.

Frontage road

A service road, usually parallel to a highway, designed to reduce the number of driveways that intersect the highway.

Funeral home

Establishments engaged in undertaking services such as preparing the dead for burial, as well as related accessory activities such as a crematorium, and arranging and managing funerals. Typical uses include funeral

Commented [16]: per Martin

homes or mortuaries.

Garage, commercial
see **Commercial, vehicle repair service**.

Garage, private

An accessory building designed or used for the storage of not more than three automobiles owned and used by the **owners** of the building to which it is accessory. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of 1½ times as many automobiles as there are dwelling units.

Garden center

Establishments or places of business primarily engaged in retail sales from the premises including trees, shrubs, seeds, fertilizers, pesticides, plants, and plant materials primarily for agricultural, residential and commercial consumers. Such establishments typically sell products purchased from others, but may sell material which they grow themselves.

Gasoline station

Any place of business with fuel pumps and underground storage tanks which provides fuels and oil for motor vehicles. A store associated with automobile fuel sales shall be considered a gasoline station.

Glare

The effect produced by brightness, sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Grade

The lowest of:

- o Lowest elevation of the street at the curb;
- o Established or mean street elevation if curb not established;
- o Lowest elevation of finished ground surface on any side of the building or property.

Governing Body

The Mayor and Council of the Town of Haymarket.

Grandfathered

A term referencing a use or structure that is not in conformance with the current ordinance but that was legal at the time it was established or constructed. Also referred to as a legally, non-conforming use/structure.

Greenhouse

A building with transparent walls and roof; for the cultivation and exhibition of plants under controlled conditions; accessory to residential uses.

Greenhouse, commercial

A greenhouse operation in which plants are offered for sale to the public, either at wholesale or at retail.

Gross public floor area

The total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled "public"), plus aisles, hallways, and entryways serving such areas.

Group home

A residential facility in which no more than eight (8) mentally ill or developmentally disabled persons reside, with

Commented [17]: Edited. part of 'home for ad included in this.

one or more resident counselors or other staff persons, and shall be considered a residential occupancy by a single family. A group home may include services such as specialized education, training, habilitation, rehabilitation, custodial care, or supervision. Mental illness and developmental disability shall not include current illegal use of, or addiction to a controlled substance. Such facility shall be licensed by the Virginia Department of Behavioral Health and Developmental Services in order to qualify as a single-family use.

Guidance services

A use providing counseling, guidance, recuperative, or similar services for persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar conditions for only part of a twenty-four hour day.

Halfway house

An establishment providing accommodations, supervision, rehabilitation, counseling, and other guidance services to persons suffering from alcohol or drug addiction, and/or to persons re- entering society after being released from a correctional facility or other institution.

Commented [18]: ?New name? *Transitional ; Reentry Housing

Adult Sober Living Home/ Transitional Housing ; Housing / Sober Living Facilities

Hazardous waste or materials

A substance listed under United States Public Law 96-510, entitled the Comprehensive Environmental Response Compensation and Liability Act.

Height

When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

Height, building

The vertical distance measured from the adjoining grade at the front entrance of the building or structure to the highest point of the structure. For corner lots, the building height shall be the average of the front height defined above and the building side height adjacent to the street. The building side height shall be defined as the vertical distance measured from the lowest adjoining grade on the side adjacent to the street to the highest point of the structure.



Height, building

Height, structure

The distance between the highest point of any structure, and the lowest grade adjacent to the structure.

Height, tree

The measurement taken from the top of the root ball to the top of the trunk.

Historic district

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A site, structure, landmark, one or more of them, or a group of them, which have unique architectural, historic, cultural, or archaeological importance to the locality, the Commonwealth, or the nation, and which are designated on the official zoning map as constituting a historic district.

Historic resource

A building, place or area in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

Historic building

Any structure that is:

- a. Listed individually in the Virginia Landmarks Registry or the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs:
 - By an approved state program as determined by the Secretary of the Interior; or
 - Directly by the Secretary of the Interior in states without approved programs; or
 - Designated as a contributing resource or structure by the Town's Comprehensive Plan or similar land use policies.

Hive

Hive means a box, skep, barrel, log gum, or other container used as a domicile for bees.

Commented [19]: New

Home occupation, class A

An occupation conducted primarily on-site involving persons residing on the premises. Such occupations may require the use of accessory structures or outside areas. No more than five clients or customers shall be allowed on the premises at any one time on a regular basis.

Home occupation, class B

An occupation conducted primarily on-site involving persons residing on the premises and not more than two (2) full or part-time outside employees. Such occupations may require the use of accessory structures or outside areas. No more than 10 clients or customers shall be allowed on the premises at any one time on a regular basis.

Hospital

A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an in-patient basis and including ancillary facilities for outpatient and emergency treatment diagnostic services, training, research, administration, and services to patients, employees, or visitors.

Hotel

also referred to as an inn, motel or motor lodge; A building or group of attached or detached buildings containing lodging units intended primarily for rental or lease to transients by the day or week. Such uses generally provide additional services such as daily maid service, restaurants, meeting rooms, and/or recreation facilities. Overnight stays longer than 29 days consecutively are not permitted.

Housekeeping

The management of household affairs including, but not limited to, cooking, contributing financially, or cleaning.

Commented [20]: new. per martin

Industrial, light

Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products, from processed or previously manufactured materials. Light industry is capable of operating in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. Use may include, but are not limited to, a machine shop, the manufacturing of apparel, electrical appliances, electronic equipment, camera and photographic equipment, ceramic products, cosmetics and toiletries, business machines, paper products (but not the manufacture of paper from pulpwood), musical instruments, medical appliances, tools or hardware, plastic products (but not the processing of raw materials), pharmaceuticals or optical goods, bicycles, and any other product of a similar nature.

Interior parking lot island

An island or planter that is surrounded on at least three (3) sides by a parking lot or access road.

Junkyard

An establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard; and the term shall include garbage dumps and sanitary fills.

Junk

Any scrap, dismantled, inoperable, or dilapidated motor vehicles, including parts; machinery; household furniture and appliances; construction equipment and materials; tanks and drums; tires; pipes; wire; wood; paper; metals; rags; glass; and any other kind of salvage or waste material.

Commented [21]: New. PWC

Kennel

Any place in which more than three (3) dogs more than six (6) months of age are kept, or any number of dogs are kept for which any fee is charged.

Commented [22]: Different than Dog Day Car

Laboratory

An establishment whose principal purpose is the research, compounding, and/or packaging of scientific products, which may include light manufacturing.

Landscaping

The improvement of the appearance of an area by the planting of trees, grass, shrubs, or other plant materials, or by the alteration of the contours of the ground.

Laundry

Establishments primarily engaged in the provision of laundering, cleaning, or dyeing services other than those classified as Personal services. Typical uses include bulk laundry and cleaning plants, diaper services, or linen supply services.

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Light pollution

Any adverse effect of man-made light including sky glow, glare, light trespass, light clutter, and decreased visibility at night.

Light trespass

Light sources casting excessive light upon adjacent property or upon a public right- of-way, also called light spillover.

Liquor

Any alcoholic beverage other than beer, wine, or cider, as those terms are defined in Virginia Code §4.1-100 and 4.1-213.

Loading space, off-street

Space for bulk pick-ups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled.

Lot

A parcel of land intended to be separately owned, developed, or otherwise used as a unit, established by plat, subdivisions, or as otherwise permitted by law.

Lot, corner

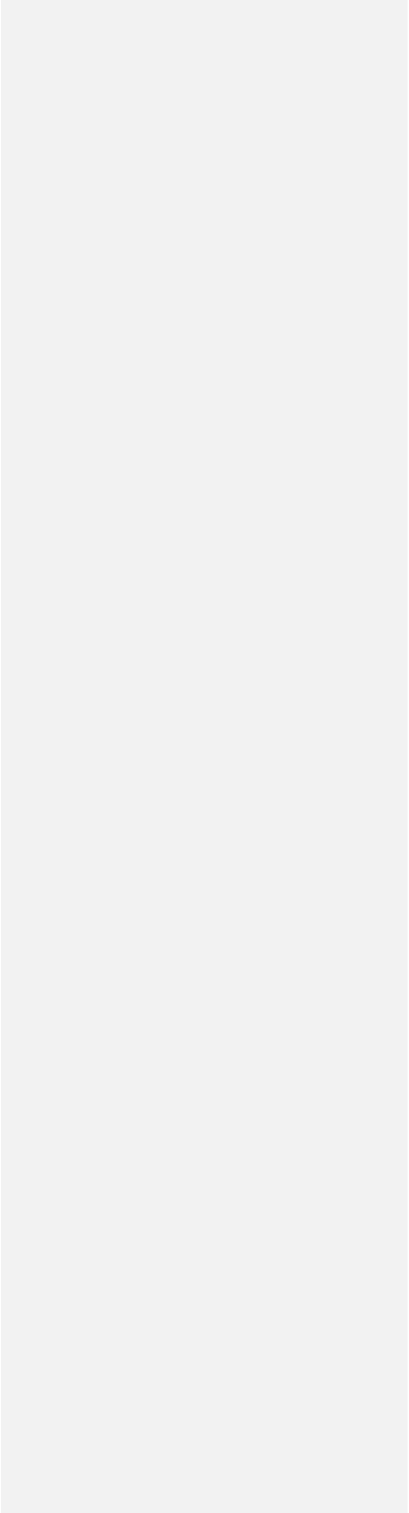
A lot abutting on two or more streets at their intersection. Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

Lot, depth of

The average horizontal distance between the front and rear lot line

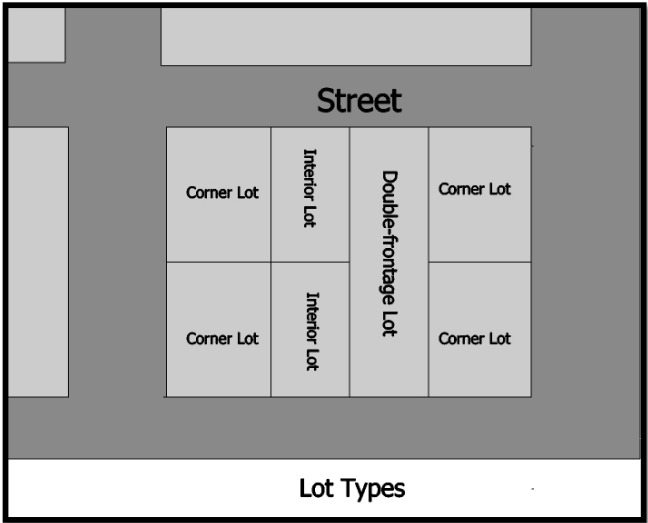
Lot, double-frontage

An interior lot having frontage on two streets.



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Lot frontage



Frontage shall be measured on a line parallel with the proposed front street line at the minimum required setback line.

Lot, interior
Any lot other than a corner lot.

Lot, irregular
A lot of such a shape or configuration that technically meets the area, frontage, and width to depth requirements of this ordinance but meets these requirements by incorporating unusual elongations, angles, curvilinear lines unrelated to topography, or other natural land features.

Lot of record
A lot which has been recorded in the clerk's office of the circuit court.

Lot, pipestem
A "panhandle" or "flag" shaped lot with its widest point set back from the road at the rear of another lot (called the pipe), and having a thin strip of land connecting to the road to provide legal access and frontage (called the stem). Pipestem lots are also referred to as panhandle lots or flag lots.

Lot width
The width of any lot at the setback line, calculated by measuring back a uniform distance from the street line as required by the setback regulation. If the street line curves or angles, the setback line shall also curve or angle uniformly with the street line and the lot width shall be calculated along the curve or angle setback line.

Marijuana Establishment
Means a marijuana cultivation facility, a marijuana testing facility, a marijuana manufacturing facility, a marijuana

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wholesaler, or a retail marijuana store as defined in state law.

Manufacture and/or manufacturing

The processing and/or converting of raw, unfinished materials, or products, or either of them, into articles or substances of different character, or for use for a different purpose.

Manufactured building

also referred to as an industrialized building; any structure, or component thereof which is wholly, or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation on a building site; which has been manufactured in such a manner that all parts, or processes cannot be inspected at the installation site without disassembly, damage, or destruction thereof.

Manufactured home

A structure subject to federal regulations, which is transportable in one or more sections; is eight feet in body or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent foundation; is designed to be used as a single-family dwelling when connected to the required utilities; and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. Some manufactured homes are also referred to as mobile homes. Building design and construction material shall be approved by the Architectural Review Board.

Manufactured home park

also referred to as a mobile home park or trailer park; Any area designed to accommodate two or more manufactured homes intended for residential use.

Maximum Lot Coverage

Area of impervious surfaces

Commented [23]: additional info needed?

Medical office

Use of a site for facilities which provide diagnoses, minor surgical care and outpatient care on a routine basis, but which does not provide overnight care or serve as a base for an ambulance service. Medical offices are operated by doctors, dentists, or similar practitioners licensed by the Commonwealth of Virginia. Emergency treatment is not the dominant type of care provided at this facility.

Microbrewery

A small-scaled facility manufacturing no more than 15,000 barrels of beer per calendar year; or a small-scale distillery, winery, or cidery manufacturing no more than 36,000 gallons; all as licensed in accordance with the Code of Virginia, as amended. These facilities may also include accessory tasting rooms at which the consumption of the beverage manufactured on-site occurs, accessory food sales, and where retail sales of the manufactured product is conducted.

Commented [24]: New. Leesburg definition

Commented [25R24]: ?allow in B1/I1

Mini-warehouse

A building designed to provide rental storage space in cubicles where each cubicle has a maximum floor area of 400 square feet. Each cubicle shall be enclosed by walls and ceiling and have a separate entrance for the loading and unloading of stored goods.

Modular building

A dwelling unit primarily manufactured off-site in accordance with the Virginia Uniform Statewide Building Code standards and transported to the building site for final assembly on a permanent foundation. Considered a single family, detached home.

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Motion picture theater, adult

An establishment that shows sexually oriented movies, distinguished or characterized by an emphasis on the exhibition of specified sexual activities or specified anatomical areas, as a significant part of its business.

Motor vehicle, inoperable

Any motor vehicle, recreational vehicle, commercial vehicle, trailer or semi trailer which is not in operating condition; or which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for the operation of the vehicle; or on which a valid license plate or a valid inspection decal is not displayed.

Commented [26]: New. PWC definition

National Register of Historic Places

The official list, maintained by the National Park Service of the United States Department of the Interior, of historic resources considered by that agency to be worthy of preservation.

Nonconforming activity

The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of the zoning ordinance of September 19, 1983, or as a result of subsequent amendments to such ordinance or this chapter.

Nonconforming lot

An otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located either at the effective date of the zoning ordinance of September 19, 1983, or as a result of subsequent amendments to such ordinance or this chapter.

Nonconforming sign

Any sign, the area, dimensions, or location of which were lawful at the time the sign was erected, but which fail to conform to the current standards and regulations due to the adoption, revision or amendment of this ordinance.

Nonconforming structure

An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this chapter, or is designed or intended for a use that does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of the zoning ordinance of September 19, 1983, or as a result of subsequent amendments to such ordinance or this chapter.

Nonprofit organization

An organization that is exempt from paying federal income taxes under section 501 of the Internal Revenue Code (26 USC 501).

Occupancy

The period during which one owns, rents, uses, or occupies a certain premises or land.

Off-street parking

Space provided for vehicular parking outside of the dedicated street or access way right-of-way.

Office, general

The use of land wherein the primary use is the conduct of a business or profession such as, but not limited to

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accounting, architecture, computer software, or information systems research and development, engineering, insurance, law, management, organization and association offices, psychology, theology, real estate, and travel. Retail sales are permitted as an accessory use of the primary activity of a General Office.

. This definition does not include Medical Office as defined by this chapter.

Office, medical

Use of a site for facilities which provide diagnoses, minor surgical care, and outpatient care on a routine basis, but which does not provide overnight care or serve as a base for an ambulance service. Medical offices are operated by doctors, dentists, or similar practitioners licensed by the Commonwealth of Virginia. Emergency treatment is not the dominant type of care provided at this facility.

Open space

Any parcel of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment. Open space may include active recreational facilities such as swimming pools, play equipment, ball fields, court games, and picnic areas.

Open space, common

Land within or related to a development, not individually owned or dedicated for public use, which is intended for the common use or enjoyment of the residents of the development and may include such complementary structures as are necessary and appropriate. Common open space may include recreation centers, swimming pools, tennis and basketball courts, and similar facilities.

Open space, required

Any space required in any front, side or rear yard.

Outdoor display

Outdoor portion of a retail use open to the public and dedicated to the display of wares for customer inspection.

Outdoor gathering

Any temporary organized gathering expected to attract 200 or more people at one time in open spaces outside an enclosed structure. Included in this use type are entertainment and music festivals, church revivals, carnivals and fairs, and similar transient amusement and recreational activities not otherwise listed in this section.

Outdoor storage

The keeping, in other than a building, of any goods, materials, or merchandise on the same parcel for more than twenty-four consecutive hours. This includes items on a porch or in a carport.

Parcel or parcel of land

A lot or parcel which is described by a plat or other legal description.

Parking facility

A site for surface parking or a parking structure use which provides one or more parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this ordinance. This use type shall not include parking facilities accessory to a permitted principal use.

Parking lot area

The square foot area of the parking spaces and aisles and interior parking lot islands, excluding access drives that do not have parking spaces within them.

Parking space, compact

A space for parking one passenger automobile that is 16 feet long and 8 feet wide and is marked "Compact car."

Parking space, normal

A space for parking one passenger automobile that is 18 feet in length and 9 feet in width.

Patio

A level surfaced area directly adjacent to a principal building which has an average elevation of not more than 30 inches from finished grade, and without walls or a roof. A patio may be constructed of any materials.

Pawn shop

A use engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker and the incidental sale of such property.

Pedestrian ways

Paved, marked or otherwise designated pedestrian treatments meeting AASHTO standards.

Person

An individual, firm, corporation, or association.

Plat

A map or plan of a parcel of land that is to be, or has been subdivided. When used as a verb, "plat" is synonymous with "subdivide."

Plat, final

the map or plan of a subdivision of land prepared by a licensed engineer or surveyor which meets all the requirements of this chapter, including any accompanying material, as described in article V of this chapter.

Plat, preliminary

means the map or plan of a subdivision of land prepared by a licensed engineer, land surveyor, owner of the land, land planner, architect, certified landscape architect or others having training or experience in subdivision planning or design which meets the requirements of this chapter, including any accompanying material, as described in article V of this chapter.

Porch

A roofed open area, which may be glazed or screened, usually attached to or part of and with direct access to or from a building.

Premises

see Lot.

Preservation

The act or process of applying measures to sustain the existing form, integrity, and material of a site, structure, or landmark, and their existing vegetative cover. Preservation may include initial stabilization work, where necessary, as well as ongoing maintenance of these elements.

Principal building or structure

A building or structure in which the primary use of the lot on which the building is located is conducted.

Principal use

The main use of land or structures as distinguished from a secondary or accessory use.

Property

Any tract, lot, parcel or several of such tracts, lots or parcels collected together.

Public

Unless otherwise specifically indicated, public shall mean anything owned, operated, provided, and/or maintained by a local, state, or federal government.

Public assembly

Facilities that accommodate public assembly for sports, amusements, or entertainment purposes. Typical uses include auditoriums, sports stadiums, convention facilities, religious, and incidental sales and exhibition facilities.

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Public maintenance and service facility

A public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment services centers, and similar uses having characteristics of commercial services or contracting or industrial activities.

Public parking

Any area used primarily or regularly for parking motor vehicles; or to any parking space or area required to be provided by any law; except for parking provided solely to reserve a single- family dwelling.

Public use

Any use for exclusively public purposes without reference to the ownership of structures or the realty upon which it is situated by any department or branch of the federal government, commonwealth, or locality.

Public water or sewerage system

A water or sewerage system owned and operated by the Town, or owned and operated by a private individual or a corporation approved by the Council and properly licensed by the state corporation commission, and subject to special regulations as set forth in this chapter. See Utility service, major.

Public utility

Any person, firm, corporation, municipal department or board duly authorized to furnish, under federal, state, or municipal regulations, to the public electricity, gas, steam, communications, telegraph, transportation, or water.

Recreation, active

Those recreational pursuits which require physical alteration to the area in which they are performed including, but not limited to, pedestrian ways, bikeways, tennis courts, swimming and boating areas, playgrounds, and play fields.

Recreation, passive

Recreational activities that generally do not require a developed site such as hiking, horseback riding, and picnicking.

Recreation facility, private

A private recreational facility for use solely by the residents and guests of a particular residential development, planned unit development, or residential neighborhood, including indoor and outdoor facilities. These facilities are usually proposed or planned in association with development and are usually located within or adjacent to such development.

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Recreation facility, public

Publicly owned or operated recreation facilities.

Recreational vehicle

Any vehicle, trailer, or semitrailer designed for human occupation and not meeting the definition of manufactured home. For the purposes of this section this includes motorhome, camping trailer, truck camper, tent trailer, and boat trailer.

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Recycling center

A facility used by the general public for the collection of materials for recycling or reuse, including bins, boxes, buildings, self-propelled motor vehicles, trailers, and other enclosures or receptacles. Except for municipal or other governmental sponsored programs to collect and/or recycle household hazardous wastes, this definition shall not include facilities for the collection of non-recyclable materials, such as business and household refuse, garbage, organic materials, medical waste, trash, junk, toxic substances, or similar materials.

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Replacement cost

The cost of restoring a damaged building or structure to its original condition. Replacement cost shall include reasonable estimates of the cost of materials and labor and shall be compared with the assessed value as determined by the Assessor to determine the percentage of the cost of improvements.

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Research and development

A business which engages in research, or research and development, of innovative ideas in technology-intensive fields. Examples include research and development of communication systems, transportation, geographic information systems, multimedia, and video technology. Development and construction of prototypes may be associated with this use.

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Residential density

A measure of dwelling units per acre. The number of units shall be rounded up to the next whole unit (e.g. a 5.2 unit/acre average is counted as 6 units/acre).

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Restaurant

An establishment engaged in the preparation of food and beverage.

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Restaurant, General

An establishment with table side service (order and delivery) of individual portions of prepared food and/or beverages using non-disposable containers; traditional sit-down establishments with wait service. Carry-out service is a limited part of the establishment's business. This includes but is not limited to , Cafeterias, cafes (indoor or outdoor) or tearooms,r,.

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Restaurant, drive-in/drive-through

An establishment primarily engaged in dispensing prepackaged food and beverages ready for consumption at the point of sale. Customers are served food in disposable containers and the product is delivered to their vehicles or at a drive through window.

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Restaurant, mobile food unit

Motorized or non motorized vehicles that can be moved from place to place with on-board power, refrigeration, food preparation facilities, and/or room for a limited number of employees. Also referred to as "food trucks" or "food carts".

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Restaurant, Carry Out/ Quick Service

An establishment where the primary method of operation does not include table service, but includes a walk-up counter. Carry-out is a primary function of the establishment. This includes but is not limited to fast-food, public snack bars, and delicatessens.

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Retail

The selling of goods, wares, or merchandise directly to the ultimate consumer or persons without a resale license.

Retail Use, Personal services

Establishments or places of business engaged in providing services involving the care of a person, personal property, or apparel, or provide for informational, instructional, and similar personal improvement services. Uses include but are not limited to beauty and barber shops; pet grooming; seamstresses, tailors, or shoe repairs; florists; laundromats and dry cleaning stations serving individuals and households; physical fitness studios; dance studios; craft and music studios; driving schools; photographic studios; tattoo parlors and piercing shops; shipping services; appliance repair shops; shoe repair; watch or jewelry repair shops; repair of musical instruments; opticians. This definition does not include linen service establishments, day spas, dry cleaning plants, or motor vehicle repair shops.

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Retail Use, General

A business engaged in the sale of merchandise to the public. Such businesses include but are not limited to household goods, clothing, hardware, furniture, candy store, florists. This does not include motor vehicle sales, heavy equipment and vehicle sale, automobile parts and supply stores; quick service food store, rental or service establishment, lumber yard, construction, motor vehicle service or repair, or store, grocery.

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Retail Use, Grocery

A retail business primarily engaged in the sale of unprepared food for personal or household preparation and consumption. Such a facility may also engage in incidental sales of prepared foods for personal consumption on-or off-site.

Retail Use, Liquor

Any privately owned store (i) licensed by the Commonwealth of Virginia to sell liquor for off-premises consumption, but excluding Breweries or Distilleries as defined by this chapter, and (ii) in which liquor makes up more than 10 percent of its stock in trade or occupies more than 10 percent of its net floor area.

Retail Use, Drug

Establishment offering a variety of personal or household goods with a licensed pharmacist on staff for the purpose of dispensing prescription drugs. Such stores may or may not include a drive through.

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Retail Use, Convenience

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Establishments primarily engaged in the provision of frequently or recurrently needed everyday goods for household or personal use, such as prepackaged food and beverages, limited household supplies, over the counter drugs, newspapers, or magazines. Uses include but are not limited to neighborhood markets, or country stores. Convenience stores shall not include fuel pumps or the selling of fuel for motor vehicles.

Retail, Equipment sales and rental

Establishments primarily engaged in the sale or rental of tools, trucks, tractors, construction equipment, agricultural implements, and similar industrial equipment, and the rental of mobile homes. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

Right-of-way

A legally established area or strip of land, either public or private, on which an irrevocable right of passage has been recorded, and which is occupied or intended to be occupied by a street, utility service, water main, sanitary or storm sewer main, or other similar use.

Road

see Street.

Salvage and scrap service

Place of business primarily engaged in the storage, sale, dismantling, or other processing of uses or waste materials which are not intended for reuse in their original forms. Typical uses included paper and metal salvage yards, automotive wrecking yards, junk yards, used tire storage yards, or retail, and/or wholesale sales of used automobiles parts and supplies.

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. Screening is intended to substantially, but not necessarily totally, obscure visual impacts between adjoining uses.

Setback

The minimum distance by which any building or structure must be separated from the front lot line.

Setback line

see Building line.

Shelter

A facility providing temporary protective sanctuary for victims of crime or abuse including emergency housing during crisis intervention for individuals, such as victims of rape, child abuse, or physical beatings.

Shopping Center

A group of commercial establishments planned, constructed and managed as a total entity with shared access, customer and employee parking provided onsite, provision of goods, delivery separated from customer access, aesthetic considerations, and protection from the elements.

Shooting range, indoor

The use of a structure for archery or firearms for the purposes of target practice or competitions.

Solar Energy System

An energy system that consists of one or more solar collection devices with the primary intention of generating electricity, storing electricity, or otherwise converting solar energy to a different form of

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energy. See Article XXI, Section 58-21.4(d) for more information, definitions, and examples.

Shrub

A woody plant producing multiple shoots or stems from the base height, with a total height of 15 feet or less. Also, when used to meet the landscaping criteria of the zoning ordinance, a perennial planting that, at the time of planting, has a minimum height of two (2) feet measured from the ground elevation after planting.

Sign

Please see Article XVII- Signs for more information and section 58-17.2 for definitions and examples.

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Site plan

A plan prepared by a professional engineer or land surveyor licensed by the state showing all proposed improvements to the site in accordance with Article III section 58-3.7 of this chapter.

Site plan, major

A Major Site Plan is a required submission for development where the land disturbance will be 2,500 square feet or greater, increase of gross floor area is 1000 square feet or more, or outside agency review is required, prepared in accordance with this chapter, and is a detailed engineering drawing of the proposed improvements required in the development of a property.

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Site plan, minor

A Minor Site Plan is a required submission for development where the land disturbance will be less than 2,500 square feet, increase of gross floor area is below 1000 square feet, no outside agency review is required, or the use is an addition to an existing permitted use or an accessory use to a permitted principal use prepared in accordance with this chapter, and is a detailed drawing of the proposed improvements required in the development of a property.

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Special exception

A special use exception or yard, area or height exception specifically listed in this chapter which may be permitted by the board of zoning appeals in a specified district or in all districts in accordance with the provisions of this chapter.

Special use

A use listed in this chapter as requiring a special use permit and which may be permitted under certain conditions, by the Town Council after public hearing and report by the Planning Commission, in accordance with the procedures specified by the Zoning Ordinance and applicable state law.

Square feet, gross

All enclosed, usable space within a structure, including unfinished service areas such as stairwells and elevators.

Square feet, net

All enclosed, usable finished space within a structure, not including unfinished service areas such as stairwells and elevators.

State road

A street or roadway that is part of the Virginia State Highway System or Secondary Highway System.

Story

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That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, "story" means the space between the floor and the ceiling next above it.

Story, half

A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use.

Streetscape

The combination of buildings, uses, landscaping, and furniture located in the area that may either abut or be contained within a public or private street right-of-way or access way that create the visual image of the street. Street line – The dividing line between a street or road right-of-way and the contiguous property.

Street, major

Any existing or future street identified in an adopted plan, which carries traffic, or anticipated traffic, exceeding 500 vehicles per day.

Street, minor

A street that is used primarily as a means of public access to abutting properties, with anticipated traffic of less than 500 vehicles per day.

Street width

The total width of the strip of land dedicated or reserved for public travel, including roadways, curbs, gutters, sidewalks, and planting strips, and when necessary public utility easements.

Street, private

A roadway constructed to the standards of the Commonwealth, guaranteed to be maintained by a private corporation, individual(s) served by the road, or by a property owners association by means of a covenant, deed, or other acceptable means by the Town. Such street shall have guaranteed public vehicular access.

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Street, public

Public property which affords access to property, and encompassed by a right-of-way. "Street" includes but is not limited to lane, road, way, place, court, drive, etc. Such street is dedicated to public use and maintained by the Commonwealth as a part of the state primary or secondary road system. The street width and right of way shall be built to the existing standards of the town and Commonwealth. t.

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Street, service drive

also referred to as a Frontage road; A public right-of-way generally parallel and contiguous to a major highway, primarily designed to promote safety by controlling ingress and egress to the right-of-way by providing safe and orderly points of access to the highway.

Structure, permanent

Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, and signs.

Structure, temporary

Anything constructed or erected without a permanent foundation or footings and that extends eight inches or

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more above the adjacent yard surfaces, but excluding a Manufactured home as defined by this chapter.

Studio, fine arts

A building, or portion thereof, used as a place of work by a sculptor, artist, or photographer; or used as a place to exhibit and offer for sale works of the visual arts (other than film).

Subdivide

The process of dividing or consolidating land to establish a subdivision.

Subdivider

A person or his agent who has applied for approval of, or has duly recorded a plat for, the subdivision of a tract of land.

Subdivision

The division or redivision or consolidation of a parcel(s) of land into lots or parcel (s), for the purpose of transfer of ownership or building development. In addition, any division or redivision of existing real property for condominium development shall be considered a subdivision.

Subdivision, major

Any subdivision which involves four (4) or more lots, or which involves the creation of any new public street, regardless of the number of lots involved.

Subdivision, minor

Any subdivision which involves three (3) or fewer lots, all of which front on an existing dedicated and accepted public street and which does not require the creation of any new public street.

Substantial damage

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

Substantial improvement

Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Surveyor

A certified land surveyor licensed by the Commonwealth of Virginia.

Tattoo Parlor/ Body Piercing Salon

Any business that provides tattooing or body-piercing as those terms are defined in Virginia Code § 54.1-700, or both tattooing and body-piercing.

Travel trailer

see **Recreational vehicle**.

Tree canopy

The outer limit of a tree's foliage shown from directly overhead and will be measured in square feet.

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Utility service, major

Service of a regional nature which normally entails the construction of new buildings or structures such as generating plants and sources, electrical switching facilities and stations or substations, community wastewater treatment plants, and similar facilities. Included in this definition are also electric, gas, and other utility transmission lines of a regional nature which are not otherwise reviewed and approved by the Virginia State Corporation Commission. All overhead service, distribution and transmission lines are included in this definition.

Utility service, minor

Service which is necessary to support development within the immediate vicinity and involve only minor structures. Included in this use type are small facilities such as transformers, relay and booster devices, and well, water and sewer pump stations. Also included in this use type are wireless communication antennas which are attached to an existing building or structure, including but not limited to utility poles, signs, broadcasting or communication facilities, and water towers, and which are not greater than 20 feet in length.

Variance

A reasonable deviation from the provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure in accordance with Section 15.2-2201 of the Code of Virginia, as amended. It shall not include a change in use, which change shall be accomplished by a rezoning or a conditional rezoning.

VDOT

The Virginia Department of Transportation.

Vegetative buffer

Deciduous and evergreen plants, shrubs, or trees that are mature enough to act as an effective visual and audible buffer.

Vegetative filter strip

Perennial vegetation established or left undisturbed adjacent to the shoreline of a watercourse intended to filter out sediment and other non-point source pollutants from runoff before it reaches a watercourse.

Veterinary hospital/clinic

Any establishment rendering surgical and medical treatment of animals. Boarding of domestic animals shall only be conducted indoors, for no more than 30 consecutive days, and shall only be incidental to such hospital/clinic use, unless also authorized and approved as a commercial kennel.

Virginia Landmarks Register

The official list, maintained by the Department of Historic Resources, of historic resources considered by the Board of Historic Resources to be worthy of historic preservation.

Warehousing and distribution

Uses include storage, warehousing, and dispatching of goods within enclosed structures or outdoors. Typical uses include wholesale distributors, storage warehouses, and moving/storage firms.

Wetlands

Waters of the United States, including land where, at least some of the time, water saturates the soil enough to result in a hydric soil (soil that is characterized by an absence of free oxygen some or all of the time). Wetlands

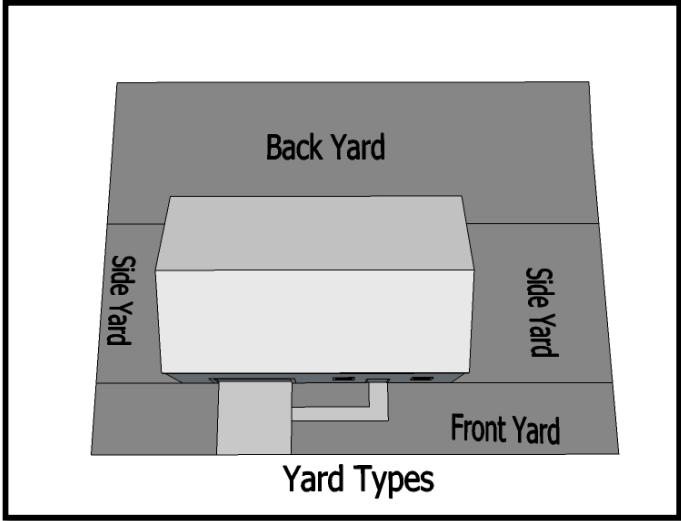
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limits must be determined in accordance with the current federally approved method of delineation.

Yard

An open space on a lot other than a court unoccupied and unobstructed from the ground upward, except as otherwise provided in this ordinance.

- (1) Front yard – An open space on the same lot as a building between the front line of the building (excluding steps) and the front lot or street line, and extending across the full width of the lot.
- (2) Rear yard – An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot and extending the full width of the lot.
- (3) Side yard – An open, unoccupied space on the same lot as a building between the sideline of the building (excluding steps) and the sideline of the lot, and extending from the front yard line to the rear yard line.



Zoning permit

A document issued by the zoning administrator authorizing the use of lots, structures, lots and structures, and the characteristics of uses.

ARTICLE III. - REVIEW AND APPROVAL PROCEDURES

Sec. 58-3.1 - Schedule of fees, charges, expenses and required materials.

- (a) The Council shall establish a schedule of fees, charges, expenses and required materials, and collection procedure for building permits, certificates of occupancy, appeals and other matters

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pertaining to this chapter. The Schedule of Fees which is adopted by reference and declared to be a part of this chapter shall be posted in the Town office and may be altered or amended only by the Council. Sufficient fees shall be collected to cover the cost of making inspections, issuing permits, advertising notices and other expenses incident to the administration of this chapter.

- (b) Until all applicable fees, charges, and expenses have been paid in full, and all required material has been submitted, no action shall be taken on any application or appeal.
- (c) Council may require the applicant to produce satisfactory evidence that any delinquent accounts (i.e., real estate taxes, nuisance charges, stormwater management utility fees, or any other charges that constitute a lien on the subject property, or that are owed to the Town and have been properly assessed against the subject property) have been paid by any qualified party (i.e., the property owner, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50 percent), prior to the initiation of any land use related application (i.e., special exception, special use permit, variance, rezoning, building permit, erosion and sediment control or stormwater permit or other land disturbing permit, or any final land use approval).
- (d) Pursuant to Virginia Code §15.2-2286, the Town may enter into a voluntary agreement with a landowner that results in the downzoning of the landowner's undeveloped or underdeveloped property in exchange for a tax credit equal to the amount of excess real estate taxes that the landowner has paid due to the higher zoning classification.

Sec. 58-3.2 - Special uses.

- (a) *Purpose.* The purpose of the special use procedure is to provide for certain uses which, by their nature, can have an undue impact upon or be incompatible with other uses of land within a certain zoning district and therefore require the exercise of planning judgment. An application for a special use permit may be made by a property owner, for his property, for any use which is listed as a special use in the zoning district in which his property is located. A duly authorized agent for an owner may make an application, provided a legally sufficient power of attorney, as approved by the Town Attorney, has been executed.
- (b) *General Guides and Standards.* The Council, under the provisions of this section, shall evaluate the impact and compatibility of each such use, and shall specify such reasonable conditions and restrictions as well as will assure the use is compatible with the area in which it is to be located, is appropriate and not in conflict with the Town's comprehensive plan, and does not adversely affect general welfare. Where that cannot be accomplished, Council shall deny the use as not in accord with adopted plans and policies or as being incompatible with the existing uses permitted by right in the area.
- (c) *Consideration.* In consideration of an application filed with the zoning administrator, the Town Council, after public hearings conducted by the Planning Commission and the Town Council, may authorize the special use of those uses that are expressly listed as special uses in a certain zoning district or elsewhere within the ordinance; however, no such special use procedure shall be required for a use allowed as a by-right permitted use in such district.
- (d) *Procedure.* The Procedure for a special use permit is generally the same as described in part (c), including a public hearing and recommendations made by the Planning Commission and the Town Council in addition to the items set forth below:
 - (1) *Review of application for completeness.* A complete application is one that meets the submission requirements found on the ["Special Use Permit Application" \[link\]](#). No application shall be accepted for review until it is deemed complete by the zoning administrator. The administrator's determination of completeness shall not be deemed a determination of approval. Such approval is only determined by the Town Council, subject to the standards set forth in this Section. A complete application consists of:
 - i. Application, signed by the applicant and the property owner.
 - ii. Fee. Non-refundable fee, with checks made payable to "Town of Haymarket".
 - iii. Description and Justification. A description of the proposed use, including any details

- such as anticipated hours of operation, type of clientele, proposed or existing structures, and number of anticipated vehicles. A justification in support of your request should address all issues for consideration located in Section 58-1.7(e).
- iv. Concept Plan for the Property. Plan does not need to be professionally engineered, but it must include enough detail to be judged adequately by the Planning Commission and Town Council.
 - v. Traffic Study. A traffic study is required for special use permits prepared by an engineer, surveyor, or other accepted professional as deemed by the Zoning Administrator. Zoning Administrator may waive this requirement. Either the waiver or the traffic study must be included at the time of submission.
 1. If the applicant feels that traffic will not pose an adverse effect, a **waiver [link]** may be obtained. Proof of no adverse traffic must be provided either by an engineer, surveyor, or other accepted professional, or demonstrated through a map program (such as Google Maps). A narrative explaining the proof of no adverse traffic must accompany the waiver. The waiver may be accepted or rejected by the zoning administrator. All parts of the waiver must be complete at the time of submission.
- (e) A special use shall be approved if its design, location, construction, method of operation, special characteristics and other aspects satisfy the following standards:
- (1) The proposed use at the stipulated location shall be in accordance with the official policies of an adopted comprehensive plan, and with any specific element of such a plan.
 - (2) The proposed use shall be in accordance with the general purpose and intent of the applicable zoning district requirements.
 - (3) The proposed use shall not adversely affect the use or values of surrounding properties and structures.
 - (4) The proposed use shall not adversely affect the health, safety or general welfare of persons residing or working in the neighborhood.
 - (5) Pedestrian and vehicular traffic generated by the proposed use shall not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
 - (6) Utility, drainage, parking, loading and other necessary facilities provided to serve the proposed use shall be adequate.
- (f) Affordable Housing. Wherein the applicant proposes affordable housing, the conditions in connection with the residential special use permit shall be consistent with the objective of providing affordable housing. The Council shall consider the impact of the conditions upon the affordability of the housing when imposing conditions on residential projects specifying material and methods of construction or specific design features.

Sec. 58-3.3 - Licenses, permits; issuance; validity.

All department officials and public employees of this jurisdiction which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this chapter. Any such permit, if issued in conflict with the provisions of this chapter, shall be null and void.

Sec. 58-3.4 - Zoning permits for new construction, reconstruction, enlargement or alteration.

- a. Any new construction, reconstruction, enlargement or alteration shall be started only after all requirements of this chapter have been met and a zoning permit has been obtained from the administrator.
- b. Each application for a zoning permit shall be accompanied by three copies of a scale drawing. The drawing shall show the size 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, and the location of such building or use with respect to the property lines of the parcel of land and to the right-of-way of any street or highway adjoining the parcel of land. Any other information which the administrator may deem necessary for consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this chapter, a permit shall be issued to the applicant by the administrator. One copy of the drawing shall be returned to the applicant with the permit.

- c. Submission and approval of a plan of development shall be completed prior to the issuance of building permits to ensure compliance with all regulations contained in this zoning ordinance.
- d. Prior to approval of the development plans, the applicant shall be required to disclose and remediate any contamination or other adverse environmental conditions of the property.

Sec. 58-3.5 Pre-Application Meetings

The applicant shall schedule a meeting with the Zoning Administrator to discuss the process and proposed action prior to submitting an application.

Sec. 58-3.6 - Procedures and requirements.

Before a building permit shall be issued or construction commenced on any permitted use, or a permit issued for a new use or a change of use, a site plan prepared in accordance with this chapter shall be submitted for review. If the change of use does not require additional parking, change in ingress/egress, or other exterior modifications, then the site plan requirement may be waived at the discretion of the Zoning Administrator. A site plan is processed as either a minor or a major site plan as defined by this ordinance. Minor site plans shall be approved administratively by staff within the established review times and process. The Planning Commission shall have final purview over major site plans with an appeal process to the Board of Zoning Appeals. Modification of the plans may be required by staff or the Planning Commission as dictated by ordinance requirements. The Administrator may request additional information, which is deemed necessary and appropriate to demonstrate compliance with this article or other conditions imposed by this chapter.

Sec. 58-3.7- Required Plans

- a. An applicant shall submit a preliminary site plan for review. Such preliminary site plan, prepared by a licensed engineer or land surveyor, or in the case of minor site plans, in a form acceptable to the Administrator, shall be reviewed and returned to the applicant with comments within 60 days. This requirement for a preliminary site plan may be waived by submitting an application to the Administrator at the pre-application meeting.
- b. Unless otherwise waived, The preliminary site plan shall include the following information, at a minimum:
 - 1) Name and address of development, owner and applicant and date of plan.
 - 2) Seal and signature of the design professional engineer or land surveyor shall be on each sheet.
 - 3) Depiction of the following elements:
 - a) Existing topography with a maximum five-foot contour intervals referenced USGS Datum, extending a minimum of 50' beyond the parcel(s) property line;
 - b) north point;
 - c) scale (not to exceed one inch equals 100 feet);
 - d) boundary of the entire tract by courses and distances;
 - e) vicinity map no smaller than 1"=3000';
 - f) total project site acreage.
 - 4) Owner, present zoning, GPIN and present use of the project parcel(s) and all contiguous or abutting properties. Provide plan name and plan number of any adjacent projects.
 - 5) A zoning tabulation showing required and provided front yards/setback, side yards, back yards,

- buffers to adjacent properties, site coverage, and height restrictions. For residential site plans, provide density.
- 6) Approximate plan view location of all existing structures and improvements, including:
 - a) existing storm drainage on the parcel(s) and within 50' of the property lines with type, size and direction of flow labeled;
 - b) streams, ponds, marshes, approximate boundaries of wetland areas on the project parcel(s) , and within 50' of the property lines;
 - c) RPA boundary or a note indicating there are no mapped RPA's on the site;
 - d) the approximate 100-year flood area boundary and the source of the information;
 - e) the location of all cemeteries and other historic sites on the parcel or note indicating that there are none on site.
 - 7) Plan view representation of proposed front yards/setbacks, side yards, rear yards, buffers, and lot layout with lot numbers, if applicable.
 - 8) Proposed open spaces and recreation areas, and provisions for the perpetual maintenance thereof.
 - 9) Location of all existing and proposed easements, their widths and uses.
 - 10) Plan view location of all proposed structures with their proposed uses and distances to property lines and other buildings; and all proposed improvements, including signs, sidewalks/bike paths, streetlights, fencing and screening.
 - 11) For residential site plans, a Lot Tabulation including:
 - 12) Individual lots and open spaces;
 - 13) Lot/open space area;
 - 14) Lot coverage;
 - 15) Frontage length at the setback line.
 - 16) Number of stories, gross and net floor areas for each existing and proposed nonresidential structure labeled on the plan view.
 - 17) Parking layout shown in plan view including typical size, number of spaces by location and aisle widths; tabulation showing total number of required and provided parking spaces.
 - 18) Proposal for on-site vehicular circulation, including all streets, travel lanes, entrances and exits, service drives and points of access to adjacent properties. Street widths and VDOT classification noted.
 - 19) Estimate of existing, if applicable, and proposed daily vehicular trips generated by the site.
 - 20) Typical roadway pavement and design section for all proposed public streets.
 - 21) Street right-of-ways, including name, recordation deed book and page references, or route numbers, and widths. Location of right-of-way for future or proposed roadways on sites where such facilities are shown on the comprehensive plan.
 - 22) Location and general character of all existing and proposed utilities and structures, such as water, sewer, gas, electric, telephone, wells and drainfields on the project parcel (2) and within 50' of the property lines.
 - 23) Estimate of anticipated sewage flows in gallons per day.
 - 24) Preliminary stormwater management and BMP locations identified and type noted.
 - 25) Preliminary storm drainage layout.
 - 26) General limits of proposed clearing and grading.
 - 27) Preliminary landscape plan.
 - 28) Plan for the phasing of development, if any.
 - 29) Revisions shall have a completed revision block on each sheet identifying the revisions. A revision to an approved plan shall include a detailed narrative outlining the proposed revisions.
 - 30) A plat notation to show RPA and RMA boundaries
 - 31) a plat notation to retain an undisturbed and vegetated 100 foot wide buffer area located along other water bodies with perennial flow
 - 32) If development is to occur near North Fork Creek, a 100 foot wide buffer area of undisturbed vegetation is required

- 33) a plat notation regarding on-site septic systems to be pumped out every five (5) years
- 34) Notation regarding requirement for 100% reserve drainfield sites for on-site sewage treatment systems
- 35) development in the RPA is limited to water dependent facilities or redevelopment, including the 100 foot wide vegetated buffer
- 29)36) delineation of the buildable area be shown on all submitted site plans

Commented [44]: DEQ recommendations

A final site plan shall be prepared and certified by an engineer and/or surveyor and shall include the following minimum information:

1. Name and address of development, owner and applicant and date of plan.
2. Seal and signature of the design professional engineer or land surveyor shall be on each sheet.
3. Depiction of the following items:
 - a. Existing topography with a maximum two-foot contour intervals referenced USGS Datum, extending a minimum of 50' beyond the parcel(s) property line;
 - b. north point;
 - c. scale (not to exceed one inch equals 30 feet);
 - d. boundary of record for the entire tract by courses and distances and with 1/10,000 closure ratio;
 - e. vicinity map no smaller than 1" = 3000';
 - f. total project site acreage;
4. Owner, present zoning, GPIN and present use of the project parcel(s) and all contiguous or abutting properties. Provide plan name and plan number of any adjacent projects.
5. A Zoning Tabulation showing required and provided front yards/setback, side yards, back yards, buffers to adjacent properties, site coverage, and height restrictions. For residential site plans, provide density.
6. Approximate plan view location of all existing structures and improvements, including
 - a. existing storm drainage on the parcel(s) and within 50' of the property lines with type, size and direction of flow labeled;
 - b. streams, ponds, marshes, approximate boundaries of wetland areas on the project parcel(s) , and within 50' of the property lines;
 - c. RPA boundary or a note indicating there are no mapped RPA's on the site;
 - d. the approximate 100-year flood area boundary, the source of the information; the hydrologic, hydraulic, input and output summaries, cross sections and profiles must be added to the plan;
 - e. the location of all cemeteries and other historic sites on the parcel or note indicating that there are none on site.
7. Plan view representation of proposed front yards/setbacks, side yards, rear yards, buffers, and lot layout with lot numbers, if applicable.
8. Proposed open spaces and recreation areas, and provisions for the perpetual maintenance thereof.
9. Location of all existing and proposed easements, their widths and uses.
10. For residential site plans, a lot tabulation including:
 - a. Individual lots and open spaces;
 - b. Lot/open space area;
 - c. Lot coverage;
 - d. Frontage length at the setback line.
11. Number of stories, gross and net floor areas for each existing and proposed nonresidential structure labeled on the plan view.
12. Parking layout shown in plan view including typical size, number of spaces by location and aisle widths; tabulation showing total number of required and provided parking spaces.
13. Plan view location of all proposed structures with their proposed uses and distances to property

- lines and other buildings; and all proposed improvements, including signs, sidewalks/bike paths, handicap access curb ramps, guardrail, streetlights, fencing and screening. Sizes and widths annotated.
14. Proposal for on-site vehicular circulation, including all streets, travel lanes, entrances and exits, service drives, driveways and points of access to adjacent properties. Street widths, VDOT classification, rates of superelevation, vertical curves with sight distance noted. Horizontal and vertical sight distances verified at all intersections. All entrances labeled to proper standards and percent of grades noted at all commercial entrances.
 15. Estimate of existing, if applicable, and proposed daily vehicular trips generated by the site.
 16. Typical roadway pavement and design section for all proposed public streets.
 17. Street rights-of-way, including name, recordation deed book and page references, or route numbers, and widths. Location of right-of-way for future or proposed roadways on sites where such facilities are shown on the comprehensive plan.
 18. Location and character of all existing and proposed utilities and structures, such as water, sewer, gas, electric, telephone, wells and drainfields on the project parcel and within 50' of the property lines with sizes and types labeled. Profiles for proposed water, sewer and gas included in the plans. Fire flow calculations shall be submitted separately to the Town Clerk.
 19. Current Prince William County Service Authority Information Sheet included, filled out and signed.
 20. Floodplain study, if applicable.
 21. Storm drainage system including, all required computations, on the project parcel(s) and within 50' of the property line with sizes, type of pipe, gradients, invert elevations, profiles, direction of flow, drainage divides and areas for each structure.
 22. Stormwater Management and BMP facilities, including 10- and 100-year water surface elevations, and all required computations, BMP map, and access and maintenance easements.
 23. Final Grading Plan.
 24. Limits of proposed clearing and grading.
 25. Erosion and Sediment Control Plans including devices, locations, notes, and narratives. Erosion and Sediment Control Checklist per the Virginia Erosion and Sediment Control Handbook included in plans.
 26. Documentation and analysis for adequate outfall.
 27. Final Landscape Plan.
 28. Final Lighting/Photometric Plan.
 29. Comprehensive Sign Plan, if applicable.
 30. Unit Price List for Bonds and Escrows completed using the current Prince William County Unit Price List.
 31. Any approved waivers, variances or proffers included in the plan set.
 32. Plan for the phasing of development, if any.
 33. Names of streets. Prior to being placed on any agendas, each proposed building shall be annotated with a premise address assigned by the County Mapping Office.
 34. Plat, draft deed(s) and draft stormwater management agreement shall be submitted with the first submittal.
 35. A plat notation to show RPA and RMA boundaries
 36. a plat notation to retain an undisturbed and vegetated 100 foot wide buffer area located along other water bodies with perennial flow
 37. If development is to occur near North Fork Creek, a 100 foot wide buffer area of undisturbed vegetation is required
 38. a plat notation regarding on-site septic systems to be pumped out every five (5) years
 39. Notation regarding requirement for 100% reserve drainfield sites for on-site sewage treatment systems
 40. development in the RPA is limited to water dependent facilities or redevelopment, including the 100 foot wide vegetated buffer
 41. delineation of the buildable area be shown on all submitted site plans

Commented [45]: CBPA/DEQ Recommendation

Sec. 58-3.8- Revisions

Revisions shall have a completed revision block on each sheet identifying the revisions. In addition, a revision to an approved plan shall include a detailed narrative outlining the proposed revisions and all revisions shall be circled in red.

Sec. 58-3.9 - Number and size of sheets; number of copies.

- a. A site plan may be prepared in one or more sheets to clearly show the information required by this article, to facilitate review and approval of the plan. If prepared in more than one sheet, match lines shall clearly indicate where the several sheets join. The sheet to be used shall be a maximum of 24 inches by 36 inches in size. A total of five complete sets of blue or black line copies of a final site plan, prepared in accordance with the requirements of this article, shall be submitted for approval under this section.
- b. Prior to approval of final site plans, each proposed building shall be annotated with premises addresses assigned by the Prince William County Geographic Information Systems Division of the Department of Information Technology.
- c. Written approval letters from all necessary outside governing agencies, including but not limited to, state Department of Transportation, Prince William Service Authority, state Department of Health shall be included. Written approval letters from Virginia Department of Environmental Quality (DEQ) for VSMP on projects greater than 1 acre shall also be included.

Sec. 58-3.10 - Fee to be paid upon filing of site plan.

- a. A fee, payable to the Town, shall be paid at the time of submission of the application for review and action on a preliminary site plan and a final site plan, in accordance with the fee schedule adopted by the Town Council.
- b. A fee, payable to the Town, shall be paid prior to the issuance of zoning/building permits for construction pursuant to an approved final site plan, according to the fees established by the Town Council.

Sec. 58-3.11 - Procedure for review

- a. An applicant shall file a proposed preliminary site plan or a proposed final site plan with the Town. The Town staff shall then refer major site plan applications to the Planning Commission for its review and approval.
- b. In compliance with Code of Virginia §15.2-2259, the Planning Commission or other agent shall act on any proposed final site within 60 days of the plan being officially submitted. If approval of a feature(s) by a state agency or other public authority is necessary, the Commission or agent shall forward the plan to the appropriate state agency or agencies for review within 10 business days of receipt of the plan. The state agency shall respond in accordance with the requirements set forth in §15.2-2221, which shall proportionally extend the time for the action by the Town. The reasons for disapproval shall identify deficiencies in the plan and shall identify modifications that will permit approval of the plan. The local Planning Commission or other agent shall act on any proposed site plan that it has previously disapproved within 45 days after the plan has been modified, corrected, and resubmitted for approval. Once approved, the recorded site plan or plan of development is valid for a period of five years in accordance with §15.2-2261 of the Code of Virginia.

Sec. 58-3.12 - Period of validity of approved site plan; construction in accordance with plan

- a. An approved 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 agent may, at the time of approval, be determined 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 requirement remaining to be satisfied in order to obtain a building permit is the posting of any bonds and escrows. Construction or development may begin upon approval of the final site plan, posting of the required assurances, payment of fees, recordation of plats (if necessary), and acquisition of required permits. Any person who fails to secure the required permits or allows those permits and/or assurances to expire within the time period set forth in this section shall thereafter be required to file a new final site plan which conforms with current Town standards and requirements at the time of the new application, and shall pay an appropriate review fee.
- b. In accordance with §15.2-2209.1 of the Code of Virginia, any site plan valid under subsection (A) above, and outstanding as of January 1, 2011, shall remain valid until July 1, 2017, or such later date provided for by the terms of the locality's approval, local ordinance, resolution or regulation, or for a longer period as agreed to by the locality.
- c. No permits shall be issued by the Administrator unless they are in strict accordance with the approved final site plan (including approved minor adjustments).
- d. It shall be a violation of this article to construct, develop, erect, alter or change in any way any structure or land except in accordance with the approved final site plan (including approved minor adjustments).
- e. Final subdivision, easement or other record plats associated with site plans are valid for six months from the date of approval. The approval of these plats shall be null and void if the plat is not offered for recordation within six months after the date of approval.

Sec. 58-3.13 - Minor adjustments; deviations from final site plan

After a final site plan has been approved, minor modifications, which comply with the spirit of this article and other provisions of this chapter and with the general purpose of the comprehensive plan for the development of the area, may be approved by the Administrator without formal review when such modifications:

1. Do not reduce or alter the percentage of land shown as grass or landscaped area under the original plan.
2. Do not expand the building size or area of the lot surface in active use.
3. Do not reduce or change the efficiencies of the stormwater system.
4. Meet all applicable state, federal and local guidelines for the use or design proposed.

Sec. 58-3.14 – Compliance with approved plan

- a. If during the course of construction, it becomes necessary to deviate from the approved plan, the property owner/contractor must notify the zoning administrator immediately and submit to the Town clerk a revised site plan with the changes proposed. The zoning administrator shall then determine if such changes may be approved under section 58-2.8 or if full review will be required. The deviation proposed may not be made until the plan is approved by the Town.

- b. When any person fails to follow such steps to deviate from the plan, or when any person constructs without a plan in conformance with this article, the Building Official may notify the property owner and/or contractor on site of the violation and issue a stop work order on such non permitted construction.

Sec. 58-3.15 – Performance Guarantees

1. As a condition to the approval of a final site plan, the owner or developer shall be required to guarantee completion of the public and other site-related improvements associated with the development prior to approval of the final plat.
2. The following performance guarantees shall be required as applicable to the site:
 - a. Any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline or any improvements dedicated for public use;
 - b. Erosion and sediment control measures and stormwater management facilities;
 - c. Any privately-owned site-related improvements, including but not limited to fencing, landscaping, buffering, internal sidewalks, lighting, and paving as required by this chapter but not completed prior to issuance of a certificate of occupancy.
 - d. Other site-related improvements required by local or state ordinance.
3. Performance guarantees shall only include the cost of any facility or improvement shown or described on the approved plat or plan of the project for which such guarantee is being furnished.
4. The required guarantee shall be provided in an amount equivalent to the total estimated cost of construction based on unit prices for new public or private sector construction in the Town. The owner or developer shall submit a written itemized estimate of the total cost of construction, certified as being accurate, as part of the development application and subject to Town approval.
5. The following forms of guarantees may be used to satisfy the requirements of this section. The owner or developer may furnish to the Town, subject to the approval of the Zoning Administrator:
 - a. a certified check or cash escrow in the amount of the estimated costs of construction;
 - b. a personal, corporate or property bond with surety in an amount sufficient for the construction of the proposed facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount;
 - c. a bank or savings institution letter of credit on certain designated funds.
6. All performance guarantees shall provide that such bond, letter of credit, or other agreement shall not be terminated, canceled, or modified without at least 30 days' prior written notice by certified mail to the Administrator.
7. All performance guarantees shall provide for the completion of construction of all facilities within a time determined by the Administrator. A letter of credit cannot go past five (5) years from the date of the LOC.
8. Extensions of time. If guaranteed facilities are not completed in a timely manner acceptable to the Town, the Administrator may proceed via the provisions for default, below, or grant an extension of time for the completion of facilities, not to exceed five (5) years provided:
 - a. All surety consents have been acquired and approved by the Town;
 - b. A letter of credit from the date the LOC is submitted;
 - c. The owner has submitted an acceptable schedule for completion; and
 - d. Inspection of existing physical improvements is found to be satisfactory.
9. Partial release of performance guarantee.
 - a. Upon completion of at least 30% of the improvements covered by a performance guarantee, the applicant may file a written request for partial release of such a guarantee.
 - b. The Administrator shall act upon each written request for a periodic partial release within 30 days of receipt. The Administrator may inspect the facilities for conformance to the terms and conditions of the approved plan and specification for the facility.
 - c. If no action is taken by the Administrator during the 30-day period, the request for partial release shall be deemed approved.

Commented [46]: For Emily to review

- d. The Administrator shall have the authority to require that each request be accompanied by the certification of a professional licensed to make such determination that the required improvements are partially or finally completed in accordance with the approved plans and specifications.
- 10. Final release of performance guarantee.
 - a. Upon final completion of the facilities, the applicant may file a written request for final release of the performance guarantee. The Administrator may inspect the facilities for conformance with the terms and conditions of the approved plan and specifications for the facilities subject to the performance guarantee.
 - b. Landscaping performance guarantees. Once 90 percent of the landscaping has been installed, inspected and approved by the Administrator, 90 percent of the performance guarantee shall be released. The remaining ten percent (10%) shall be held in escrow for a minimum of two years. The final ten percent shall be released at the end of the two-year period upon inspection and approval by the Administrator.
 - c. Within 30 days of the receipt of the written request, the Administrator shall either accept the request and release the remaining guarantee or notify the applicant of specific defects or deficiencies and suggest corrective measures.
 - d. If the Administrator fails to act within the 30-day period, the applicant may make an additional request in writing for final release, sent by certified mail to the Town Manager. The Town Manager shall act within 10 working days of receipt of this request. If no action is taken, the request shall be deemed approved and the final release granted to the applicant.
 - e. Final release of any performance guarantee for public facilities shall not occur prior to receipt of as-built plans demonstrating compliance with all Town requirements.
 - f. The Administrator shall have the authority to require the request be accompanied by the certification of a professional licensed to make such determination that the required improvements are partially or finally completed in accordance with the approved plans and specifications.
- 11. Default. In the event of default in the construction of guaranteed facilities, the Administrator is authorized to take such actions as may be required to protect the Town and the public, including, but not limited to:
- 12. Require recalculation and reassessment of security;
 - a. Draw or make demand on the owner or developer's security;
 - b. Contract for the completion of the work;
 - c. Enter the property for purposes of completing the work; and
 - d. Bring an action at law against the owner, developer, and/or surety.
 - e. Whenever a performance guarantee is required by the terms of conditional rezoning, the Administrator shall employ the procedures provided in this section to establish the amount and form of the guarantee in accordance with this section.
 - f. As-built plan requirements. The Town uses the [Prince William County As-Built Checklist](#).

Sec. 58-3.16 - Inspection and supervision during installation.

- a. Inspections during the installation of required off-site and on-site improvements shall be made by the town building inspector, or appropriate county or state inspector, to assure compliance with the approved final site plan and applicable standards. The owner or developer shall notify the inspector three days prior to the commencement of any street or storm sewer work shown to be constructed on the final site plan, in order that inspections may be scheduled.
- b. The owner shall provide adequate supervision on the site during the installation of all required improvements, and there shall be a responsible superintendent or foreman, together with one set of approved plans, profiles and specifications, available at the site at all times work is being performed.
- c. Upon satisfactory completion of the installation of required improvements, the owner shall receive a certificate of approval from the zoning administrator, upon the application for such a certificate.

Sec. 58-3.17 -Vacation of interests as granted to the Town

Any interest in streets, alleys, easements for drainage, and easements for a public utility granted to the Town as a condition of approval of a site plan may be vacated according to the provisions of the Code of Virginia.

ARTICLE IV. - AMENDMENTS

~~Sec. 58-4.1 – Statement of purpose and intent.~~

~~The Council finds that a portion of the police power of the commonwealth has been delegated to each Town, to be exercised reasonably in determining the manner of its development. The state legislature has left much discretion to the Town in making such determinations, relying on the local governing body's knowledge of local conditions and the needs of its individual communities. Public necessity, health, safety, convenience, general welfare, and good zoning practice provide guiding factors for the Council in its quest to exercise its legislative mandate in formulating a reasonable policy of Town planning for the general good and welfare.~~

~~Sec. 58-4.2 – Amendments generally.~~

~~The intent of this section is to provide (pursuant to §15.2-2296-15.2-2303 of the Code of Virginia), a more flexible and adaptable zoning method to cope with situations found in zones whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned.~~

~~Sec. 58-4.3 – Conflict of interest.~~

~~When a zoning application is filed by a property owner, such petition shall be sworn to under oath before a notary public, stating whether any member of the Council or the Commission has an interest in such property, whether individually, by ownership of stock in a corporation owning such land or by partnership, or whether a member of the immediate household of any member has such interest. For the purpose of this section, own or have any interest in shall mean being a holder of ten percent or more of the outstanding shares of stock in or serving as a director or officer of any corporation owning such land, directly or indirectly, by members of his immediate household.~~

~~Sec. 58-4.4 – Notice of hearings.~~

~~The Commission shall not recommend nor the Council adopt any plan, ordinance or amendment, change in district boundaries or classification of property until the notice and public hearing requirements as required by the Code of Virginia have been satisfied.~~

~~Sec. 58-4.5 – Review and action.~~

~~In accordance with Code of Virginia, tit. 15.2, proposed amendments to this chapter, changes in district boundaries or classifications of property shall be referred to the Planning Commission for its recommendation.~~

~~Sec. 58-4.6 – Limitation on refiling a petition following denial.~~

~~Upon denial of any petition to change a zoning district, no further petition concerning any or all of the same property for amendment to the same zoning district as applied for in the petition denied shall be filed within one year of such denial.~~

~~Sec. 58-4.7 – Withdrawal of petition.~~

Sec. 58-4.1. - Statement of purpose and intent.

The Council finds that a portion of the police power of the Commonwealth has been delegated to each Town, to be exercised reasonably in determining the manner of its development. The state legislature has left much discretion to the Town in making such determinations, relying on the local governing body's knowledge of local conditions and the needs of its individual communities. Public necessity, health, safety, convenience, general welfare, and good zoning practice provide guiding factors for the Council in its quest to exercise its legislative mandate in formulating a reasonable policy of Town planning for the general good and welfare.

Sec. 58-4.2. - Amendments generally.

The intent of this section is to provide (pursuant to §§ 15.2-2296—15.2-2303 of the Code of Virginia), a more flexible and adaptable zoning method to cope with situations found in zones whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned.

Changes in the zoning restrictions applicable to any parcel of land in the Town of Haymarket may be effected in accordance with the provisions of this chapter through approval by the Haymarket Town Council in any of the following ways:

- 1.Zoning text amendments; or
- 2.Zoning map amendment (rezoning), including modification of proffers; or
- 3.Special Use Permit approval.

Sec. 58-4.3. - Conflict of interest.

When a zoning application is filed by a property owner, such petition shall be sworn to under oath before a notary public, stating whether any member of the Haymarket Town Council or the Planning Commission has an interest in such property, whether individually, by ownership of stock in a corporation owning such land or by partnership, or whether a member of the immediate household of any member has such interest. For the purpose of this section, own or have any interest in shall mean being a holder of ten percent or more of the outstanding shares of stock in or serving as a director or officer of any corporation owning such land, directly or indirectly, by members of his immediate household.

Sec. 58-4.4. - Notice requirements for map amendments and Special Use Permits.

Prior to a public hearing on a map amendment, public facility determination, or Special Use Permit before the Planning Commission or Haymarket Town Council, notice as required by this section shall be given. The Planning Commission shall not recommend nor the Haymarket Town Council approve any amendment or Special Use Permit until such notice is given. Notice of amendments or Special Use Permits need not be advertised in full, but may be advertised by reference, provided that the place where copies of such amendments or Special Use Permits may be viewed shall be included in the notice. In the case of a proposed amendment to the zoning map, such public notice shall state the general usage and density range of such proposed amendment and the general usage and density range of the applicable part of the Comprehensive Plan.

1.Notice of a zoning map amendment or Special Use Permit shall be published once a week for two successive weeks (with not less than six days elapsing between the first and second publication) in a newspaper having general circulation in the Town. Notice for both the planning commission and Board of County Supervisors may

be published concurrently. Notice shall specify the time and place of the public hearing, which shall be held not less than five days nor more than 21 days after the second advertisement shall have appeared.

2. When a proposed map amendment involves a change in the zoning map classification of 25 or fewer parcels of land, written notice shall be sent by first class mail by the Town Planner, or his designee, to the owner, agent, or occupant of each parcel within 500 feet in all directions of the property to be rezoned, as well as to the owner, agent, or occupant of the property to be rezoned in the case of a rezoning initiated by the Haymarket Town Council. If any portion of a planned development district is within 500 feet of the property to be rezoned, then notice shall be given to the homeowner association within the planned development district that has members owning property located within 2,000 feet of the property to be rezoned. Notice shall be sent at least five days before the public hearing to the last known address as shown on the current real estate tax assessment books or current real estate tax assessment records, and the person sending such notice shall make an affidavit, and file it with the papers in the case, that such notice was mailed. Written notice for Special Use Permits shall be sent by first class mail by the Town Planner or his designee for such permit to the owner, agent or occupant of each property, in all directions, within 500 feet of the site of the proposed special use, as well as to the owner, agent, or occupant of the property that is the subject of the Special Use Permit in the case of a Special Use Permit initiated by the Haymarket Town Council. Such notice shall be in a form approved by the Town Planner, and shall be mailed at least five days before the date of the public hearing to the last known address as shown on the current real estate tax assessment books. If the hearing is continued, notice shall be re-mailed. The applicant shall make an affidavit that such notice was mailed in accordance with these provisions, and shall file the affidavit with the Town Planner at least five days before the date of the public hearing.

3. When a proposed map amendment involves a change in the zoning map classification of more than 25 parcels of land, written notice shall be sent by first class mail by the Town Planner, or his designee, to the owner, owners or their agents of each parcel of land involved. Notice shall be sent at least five days before the public hearing, one notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that the Town Planner, or his designee, shall make affidavit that such mailings have been made, and shall file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequent adopted amendment or ordinance because of the inadvertent failure by the Town Planner, or his designee, to give written notice to the owner, owners or their agents of any parcel involved.

4. Notice of a map amendment or Special Use Permit shall be given by the posting of at least one sign on the property involved at least 15 days prior to the date of the public hearing. Additional signs shall be required for properties with more than one road frontage, or properties with more than 200 feet of frontage along one road. Such signs shall be supplied by the Town Planner, and shall be posted by the applicant, who shall make an affidavit that posting in accordance with these provisions was done, and shall file such affidavit with the Planning Director within three days after posting of the property. Such signs shall be posted between three and six feet in height in the following manner:

(a) All signs shall be posted so as to assure the greatest public visibility practical. Signs shall be posted adjacent to the street right-of-way abutting the site, no more than ten feet from the edge of said right-of-way. If more than one street abuts the site, at least one sign shall be posted along each abutting street. If no street abuts the site, at least one sign shall be posted along the closest public street, with a note added to locate the property in direction and distance from the sign. If more than one sign is posted along the same road frontage, such signs shall be posted at least 200 feet apart.

(b) The applicant shall be responsible for maintaining the signs in good condition until the public hearing, and shall replace damaged or removed signs as soon as practical. It shall be a violation of this chapter to damage or remove a public notice sign erected under these provisions, and each sign shall carry a warning to this effect.

(c)All signs shall be removed by the applicant within ten days of the final action of the planning commission and/or Haymarket Town Council.

5.In the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessee's association, respectively, in lieu of each owner.

6.A party's actual notice of, or active participation in, the proceedings for which written notice is required, shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.

7.When (i) a Comprehensive Plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public use airport, then written notice shall be given consistent with Code of Virginia, § 15.2-2204(D).

8.When a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice shall be given consistent with Code of Virginia, § 15.2-2204(B).

9.When a proposed amendment to the zoning ordinance or application for public facility determination or Special Use Permit includes a proposal to exceed the maximum height permitted within the subject zoning district, written notice as required in Subsections (2) and (3) above shall be provided to the owner, agent, or occupant of each parcel within 1,320 feet in all directions of the land involved.

Sec. 58-4.5. - Notice of zoning text amendments.

1.Prior to a public hearing on a zoning text amendment before the planning commission or Board of County Supervisors, notice as required by this section shall be given. The planning commission shall not recommend nor the Board of County Supervisors approve any zoning text amendment until such notice is given. Notice of such amendment need not be advertised in full, but may be advertised by reference, provided that the place where copies of such amendments may be viewed shall be included in the notice.

2.When a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of more than 25 parcels of land, then, in addition to the advertising requirements of section Sec. 58-3.4.1, written notice shall be given by the Planning Director, or his designee, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Code of Virginia, §§ 15.2-2240 et seq., where such lots are less than 11,500 square feet. Nothing in this subsection shall be construed as to invalidate any subsequent adopted amendment or ordinance because of the inadvertent failure by the Planning Director, or his designee, to give written notice to the owner, owners or their agents of any parcel involved.

Sec. 58-4.6. - Zoning text amendments.

1.Whenever the public necessity, convenience, general welfare or good zoning practice require, amendments to the text of this chapter may be proposed by resolution of Haymarket Town Council, or by resolution of the planning commission stating the public purposes therefore.

2.Amendments may be proposed using either specific language, or as a narrative, descriptive request.

3. When proposed, amendments shall be reviewed, considered and acted upon as set forth in sections 58-3.19 et seq., of this chapter.

4. Zoning text amendments that decrease the allowed dwelling unit density of more than 25 parcels of land shall give written notice of such amendments per section 58-3.5.

Sec. 58-4.7. - Zoning map amendments (rezoning).

1. Amendments to the zoning map, including amendments to any conditions previously proffered by an applicant and accepted by the Haymarket Town Council, may be initiated as follows:

(a) By resolution of the Haymarket Town Council; or

(b) By resolution of the planning commission; or

(c) By application of the property owner for his property. An agent for a property owner, or a contract purchaser (with the owner's written consent), may make an application on the owner's behalf, provided a legally sufficient power of attorney, as approved by the Town Attorney's office, has been executed by the owner. Such power of attorney shall provide that the Town may rely upon signature of the agent as constituting that of the owner for all purposes of this chapter unless the owner shall serve notice of revocation by registered or certified mail, upon the Town Planner. The signatures to such power of attorney or notice of revocation shall be attested. Such an application shall be deemed to have initiated a zoning map amendment only when made in proper and complete form, as set forth by this part, as applicable. In order for proffered conditions to be considered part of an application, they shall be prepared in accordance with the requirements of section 58-3.17.

2. When initiated, amendments to the zoning map shall be reviewed, considered and acted upon as set forth in sections 58-3.19, et seq. of this chapter. The Town shall be under no obligation to consider a property owner's application for a zoning map amendment that does not meet the standards set forth in sections 58-3.11 et seq. of this chapter.

3. An amendment to any planned district or proffered condition shall be considered as an amendment to the zoning map

Sec. 58-4.8. - Applications for modification or waiver of requirements.

For those minimum development standards specifically permitted by any provision of this chapter or other Town ordinance that may be waived or modified by Special Use Permit or proffer approved by the Haymarket Town Council, an application for such waiver or modification shall be made in accordance with the provisions of this Part 3 and may constitute the whole of or a part of such application.

Sec. 58-4.9. - Preapplication conference.

1. A preapplication conference may be requested by any person planning to seek a zoning map change or Special Use Permit pursuant to the provisions of this chapter.

2. The purpose of a pre application conference shall be for a property owner to outline for planning staff a proposed development of his property and to seek a determination from the Town Planner as to the submission requirements applicable to the application in accordance with the provisions of sections 32-700.21 through 32-700.25.

3. At or following the pre application conference, the Town Planner or his designee shall notify the applicant detailing the submission requirements that must be satisfied in order for the application to be deemed complete.

Sec. 58-4.10. - Zoning map amendments initiated by planning commission or Town Council.

1. Amendments to the zoning map initiated by resolution of the planning commission or Haymarket Town Council shall be prepared by the Town Planner in accordance with the requirements of this section.

2. An application for rezoning on resolution of the planning commission or Haymarket Town Council shall be deemed complete when it contains the following:

- (a) Copy of resolution initiating consideration of the zoning map change;
- (b) Description of land subject to the application;
- (c) Map depicting land subject to the application;
- (d) Existing and proposed zoning classifications of land subject to the application;
- (e) Existing zoning classification of all property within 200 feet of the parcel boundaries of the land subject to the application;
- (f) The names and addresses of all parcels subject to the application; and
- (g) The names and addresses of parcels for notice of public hearing as required by section 58-3.4.

Sec. 58-4.11. - Landowner initiated rezonings; mandatory submission requirements.

An application by an individual property owner shall be made to the Town Planner and shall include the items listed in this section. Except for the filing fee, and unless otherwise determined at a pre application conference, 6 collated sets of the following information, shall be submitted:

1. A fully completed application form (which shall be supplied by the Town Planner) signed by the property owner (or duly authorized agent). The application form shall include the name and current mailing address of the applicant and all record owners of the property with a ten percent or greater interest, the zoning classification sought, and any other information as may be reasonably required by the Town Planner on the application.

2. The latest deed for the property and an accurate plat of the property of a scale of one inch equals 100 feet or less prepared by a certified land surveyor, which shall show:

- (a) Bearings and distances of a scale of one inch represents 100 feet or less for all property lines and existing and proposed zoning district lines;
- (b) Area of land proposed for consideration, in square feet or acres;
- (c) Scale and north point;
- (d) Names of boundary roads or streets and widths of existing rights-of-way;
- (e) Each area of requested map amendment outlined in red.

3.A written boundary description of the land which is the subject of the application, which must conform to the plat information.

4.A general development plan, as set forth by section 58-4.12.

5.The names and mailing addresses, as listed in the current real estate tax assessment books or current real estate tax assessment records, of all property owners, in all directions, within 500 feet of the perimeter of the property to be rezoned. Even if less than the entire record parcel is to be rezoned, then the names and addresses of all property owners within 500 feet of the parcel boundaries shall be provided. When a proposed rezoning includes a proposal to exceed the maximum height permitted within the subject zoning district, the names and mailing addresses required herein shall be provided for all property owners within 1,320 feet in all directions of the land involved.

6.Additional information as required by sections 58-4.12. through 58-4.15.

7.A filing fee, in the amount established by the Haymarket Town Council pursuant to resolution.

8.An inventory of the historical records research completed including the maps and documents available for prehistoric and historic resources. The sources consulted for determining that the site has or does not have special significance shall be referenced, and shall include, but not be limited to the following:

- Town of Haymarket Comprehensive Plan, Cultural Resources Element.
- The Virginia Department of Historic Resources; Archaeological and Architectural Site Survey Files.
- The Prince William County Cemetery Inventory.

9.A phase I cultural resources survey, performed in accordance with the guidelines of the Virginia Department of Historic Resources, with the scope of work approved by the Town, for property that is on the Town Register of Historic Sites as shown in the Comprehensive Plan, and for property within highly sensitive areas for cultural resources on the high sensitivity areas and Town Registered Historic Sites Map of the Comprehensive Plan, or as indicated as having a medium to high potential on the application's cultural resources assessment and records check.

10.Traffic impact analysis.

11.A narrative description analyzing the consistency of the application responding to the intent, goals, policies and action strategies for each element of the Comprehensive Plan.

12.If proposed, provisions for affordable housing units for any development on which a residential component is to be constructed.

Sec. 58-4.12. - General development plan (GDP).

The elements required in the general development plan shall be determined by the Town Planner or his designee following the pre application conference required by section 58-3.9 based upon the size, scale, complexity and impact of the proposed rezoning. When required, each element of the general development plan shall conform to the standards set forth hereafter unless specifically waived or modified by the Town Planner or his designee:

1.A general development plan meeting the requirements of this section shall be submitted as part of an

application for a zoning map amendment requested by a landowner.

2.The general development plan shall be a written, graphic, and/or visual statement of the uses intended for the subject property, justification for the proposed zoning map amendment, and other information necessary for an orderly and expeditious review of the application. All data and other information shall be submitted in writing or by use of demonstrative materials.

3.All statements, plans, profiles, elevations and other demonstrative materials comprising the general development plan shall become part of the record of the hearing on the application for an amendment. Any model must be accompanied by eight-by-ten-inch clear photographs showing a top view, an isometric view and each side view of the model.

4.All written statements and all plans, profiles, elevations and other illustrative or demonstrative materials shall be presented on a sheet or sheets having a size of no larger than 24 by 36 inches. If prepared on more than one sheet, match lines shall clearly indicate where the several sheets join. All sheets shall be folded to a size not greater than nine by 12 inches.

5.Topography shall be shown by contour lines. The contour interval shall not be more than five feet. The contours shall be shaded in a graphic technique showing slope conditions of 15 to 25 percent and another distinguishing graphic technique showing greater than 25 percent slope.

6.An environmental constraints analysis showing slopes shaded as required by subsection 5 above and a proposed limits of disturbance line. The analysis shall include a written description and generalized mapping of natural site conditions, with an emphasis on those significant environmental features that could be affected by the proposed development and those that will be retained upon completion of the project. The analysis shall also describe avoidance efforts and/or mitigation techniques to minimize the environmental impacts of the proposal. The mapped information shall show the following:

(a)Approximate delineation of all wetland areas and Chesapeake Bay Resource Protection Areas;

(b)Areas of 15 percent slope and greater;

(c)Impervious and proposed pervious surfaces;

(d)Areas that will remain in a natural or undisturbed state upon completion of a project (including woodland conservation areas);

(e)Potential habitat for or actual occurrence of, endangered or threatened plant and animal species and species of special concern;

(f)One hundred-year floodplain boundary, as approved by the Federal Emergency Management Agency and/or the County;

(g)Areas of highly erodible, highly permeable, and marine clay soils; and

(h)Vegetative cover types.

7.A schematic land use plan, at a scale of one inch equals 100 feet or less shall be provided showing the proposed traffic circulation plan including major streets, connection to existing public roads and major pedestrian, or bike paths; all proposed major open space areas; the approximate location of all proposed community and public facilities and the proposed plan for all major sanitary sewers, water systems and storm water management and drainage improvements and the location of all buildings and other structures. The plan shall describe with specificity the means of transportation access to and from the property, and adjacent

properties if appropriate, and shall include an estimate, prepared by an appropriate expert, of the traffic that will be generated by the property and its use if rezoned.

8.A written statement setting forth the following shall also be included:

- (a) All use(s) proposed for the property, including a detailed description of the operation(s) and any special processes, conditions, hazards, safety concerns or impacts on public facilities or the public health, safety and welfare associated with the proposal.
- (b) Those general areas that have historic or scenic assets, or natural features deserving of protection and preservation, shall be indicated along with a statement of how protection and maintenance of same will be accomplished. Existing cemeteries shall be identified and the measures to protect them or relocate them in accordance with state law shall be addressed.
- (c) The method by which adjacent and neighboring properties shall be protected from the adverse effects of the proposed development, including vehicular access plans, proposed measures and types of landscaping and buffering, and peripheral setback and yard requirements.
- (d) The maximum height of all proposed structures in the development.
- (e) The maximum number of dwelling units proposed, maximum lot coverage, and/or maximum floor area ratio (F.A.R.) as appropriate.
- (f) The special amenities to be provided within the development, including a statement of commitment to landscaping with indigenous, drought tolerant species listed in the Zoning Ordinance.
- (g) All off-site improvements that are proposed, such as roads, water, and sewer and drainage facilities.
- (h) The proposed development phasing plan and its relationship to the applicant's provision of supportive utilities, facilities, roads and other services, including the projected wastewater flows for each phase.
- (i) Any proposed signs that will not meet the standards of sections 58-15.1 et seq. of this chapter when signage proposed for the project is specified in a proffer statement.
- (j) Additional information as desired by the applicant.
- (k) Any modifications or waivers proposed pursuant to section 58-4.8.

Sec. 58-4.13. - Requirements for a master zoning plan.

1. The master zoning plan (MZP) shall be prepared using a convenient scale so that the entire parcel can be shown on a single sheet of paper no larger than 30 inches by 42 inches. The Town Planner may approve submission of plans on more than one sheet so long as one sheet depicting the entire project is submitted.

2. Any provision of any matter submitted with the master zoning plan that is to be considered for illustrative purposes, and is not intended to comprise part of the master zoning plan shall be clearly labeled as such.

3. The elements required to be addressed in the master zoning plan shall be determined, by the Town Planner, in accordance with the provisions below, following the pre application conference in accordance with section Sec. 58-3.9, based upon the size, intensity, scope and impacts of the proposed development.

4.The master zoning plan shall include the following:

- (a)Information required for general development plans as described in section 58-3.12; and
- (b)The location of property lines, watercourses or lakes, known cemeteries, wooded areas, existing roads, entrances, subdivisions and major landmarks, which are within the property, and within 500 feet of the property.
- (c)The general boundaries of each proposed section, land use, density, or intensity, principal street systems, recreation areas or public use areas to be located within the project.
- (d)Proposed general land use areas shall be designated by land bays. The general sizes of land bays proposed for consideration shall be determined by the Town Planner as part of the pre application conference required by section 58-3.9. Designation of uses within each land bay shall be consistent with the Comprehensive Plan land use designation, in accordance with the provisions of this Chapter. Minimum and maximum development densities for residential uses or floor area ratios for nonresidential uses shall be established for each land bay and tabulated in accordance with the requirements of subsection (e) below.
- (e)A table which shows, for each land bay designated in accordance with subsection (d) above, range of the uses, number of dwelling units for residential areas or square feet of floor space for commercial, office or industrial areas and their respective acreage, which are proposed for the site.
- (f)Those specific features in response to the impacts identified in an environmental constraints analysis, pursuant to section 58-3.12.6, that the developer proposes to enhance the effects of the development through the provision of undisturbed open space. These features may be shown on one or more sheets, or submitted in narrative form, or both, provided they are clearly labeled as part of the master zoning plan or incorporated into any proffer statement.
- 5.Upon approval of an application, the master zoning plan shall determine the general layout of the development, the uses permitted in the land bays shown on the master zoning plan, and the general size and capacity of public improvements shown (but not their specific location, unless so proffered).

Sec. 58-4.14. - Format for the development analysis.

1.A development analysis shall be prepared by the applicant to describe and analyze the probable effects of the proposed development upon the Town, and the applicant's plans for preservation of the sensitive environmental features identified in the environmental constraints analysis. The matters the applicant shall be required to address in the development analysis shall be determined by the Town Planner, following a pre application conference pursuant section 58-4.9, based upon the size, intensity, scope and impacts of the proposed development.

2.The Town Planner shall require the development analysis to address the following as applicable:

(a)Land use proposal: The applicant shall submit a land use proposal which shall address, but not be limited to, the following:

- (1)Proposed mix of uses;
- (2)Methods of integrating and unifying architectural and site design within land bays;

(3) Proposed landscaping features:

(4) Proposed public amenities:

(5) Proposed recreational facilities and other common open space; and

(6) Relationships of proposed uses and site design within the district to the land use classifications of the Comprehensive Plan and existing zoning in areas adjacent to the proposed planned development.

(b) Historic sites and landmarks analysis: The applicant shall identify and address the potential effects on significant cultural resources (architectural, historical and archaeological), and cemeteries or grave sites, in accordance with the requirements of subsections 58.3.12.8 and 58.3.12.9 and state how these effects will be mitigated. The applicant may be requested to conduct more detailed studies in historically or archaeologically sensitive areas should review of the application demonstrate the probable existence of such areas, and the need for their evaluation and protection.

(c) Water and sanitary sewer: The applicant shall provide a plan to serve the proposed development adequately.

(d) General open space plan: The applicant shall prepare a general open space plan. The plan shall identify proposed tree save areas, conservation areas, and buffer areas between potentially incompatible uses and along the boundaries of the proposed planned development. The proposed method of buffering shall be clearly articulated and shown on the master zoning plan. The general boundaries of the proposed open space areas shall also be shown on the master zoning plan.

3. The Town Planner may require the development analysis to address any or all of the following:

(a) Transportation system analysis and plan: The applicant shall prepare a transportation study and plan, which shall include at a minimum the information required by subsections 58-4.10, and 58.3.12.4 of this Chapter.

(b) Development phasing plan: The applicant shall prepare a development phasing plan which identifies in what order and how proposed public utilities, public facilities and other improvements and amenities necessary to support the project will be constructed, dedicated or reserved.

(c) Architectural plan: The applicant shall submit an architectural plan that addresses building materials, building heights, site design amenities, parking, landscaping, etc. The plan shall also address any means by which the applicant will ensure that such architectural plan would continue to govern development through its completion.

(d) Special or unique landscape treatments: The applicant shall submit plans and/or elevations of entry features and streetscapes proposed within the development.

4. Additional conditions: The applicant shall also address other topics that may be deemed appropriate by the applicant or Town Planner. These may include but not be limited to proposals for affordable housing, pedestrian and bikeway systems, road improvements beyond those necessary to serve the project, park facilities and other improvements.

5. The development analysis shall be considered by the planning commission in its decision whether to recommend and the Haymarket Town Council whether to grant or deny an application for rezoning to a planned development district. To the extent that the master zoning plan makes specific reference to one or more features of the development analysis, such features shall be deemed incorporated into the master zoning plan unless

such reference clearly notes it is made only for illustrative purposes or exception to such incorporation is otherwise clearly and specifically taken.

Sec. 58-4.15. - Waiver/modification provisions for planned development districts.

As part of a planned development district application, except for allowable density, an applicant may request that a waiver of or modification to specific development standards of the subdivision ordinance, this chapter or the requirements of the Zoning Ordinance be granted.

1.An applicant shall provide written justification for all proposed waivers or modifications that demonstrates that the request is necessary due to the unique characteristics of the specific property or the activity proposed is based on previously submitted and approved submission documents, provided such waivers or modifications will not conflict with the fulfillment of the purpose of this section.

2.The applicant shall propose an alternative or modified approach to fulfill the intent of the standard being waived or modified.

3.All modifications or waivers must demonstrate that the alternative proposal fulfills or exceeds the intent and purpose of the regulation being modified or the Comprehensive Plan.

4.The Haymarket Town Council may approve or disapprove such a request as specifically identified in the Council's motion, in whole or in part.

5.The approval of any waiver or modification requests will be reflected in the approved rezoning.

6.The depiction of a modification or waiver upon plans required by this section shall not of itself authorize such waiver or modification.

Sec. 58-4.16. - Concurrent processing.

Subject to approval by the Town Planner or designee, site and subdivision plans may be concurrently processed with a rezoning application upon the request of the applicant if the applicant acknowledges in writing responsibility for costs related to site and subdivision plan submittal regardless of whether the rezoning application is approved or denied. Concurrent processing of site and subdivision plans shall be limited to rezoning applications for targeted industries, planned development districts, nonresidential uses and residential projects including a qualified affordable housing component, either or both of which shall be in accordance with the long range land use designation of the Comprehensive Plan, or as otherwise authorized by the Town Planner. Submission of the plans may occur after receipt of agency comments upon first review of the application.

Sec. 58-4.17. - Conditional zoning.

1.Any applicant for a zoning map amendment (rezoning) may, as a part of his application, proffer reasonable conditions concerning the use and development of his property, including also off-site improvements that may serve or benefit his property and the public welfare. Proffers shall be signed and acknowledged by the owner of the property or any agent authorized by a power of attorney meeting the requirements of subsection 58-3.7.1(c).

2.Every proffer statement shall state that the applicant proffers that use and development of the property shall be in strict accordance with the proffered conditions. Any revised proffer statements shall state that it supersedes any proffer statements previously submitted and shall either show the revisions by appropriate annotation on its face or by reference to a narrative description of changes submitted at the same time. In the event the applicant proffers to develop and use his property in accordance with the schematic land use plan, or other plans, proffers, elevations, demonstrative materials and written statements submitted as part of the

general development plan, the proffer statement shall so state and each copy of such materials shall so provide, in accordance with the provisions of the adopted proffer policy. In the event of an inconsistency between a specific written proffer and a depiction upon a proffered general development plan, the proffered text shall control.

3.The Haymarket Town Council, when acting on an application for a zoning map amendment, may adopt as a part of the zoning map the proffered conditions, in whole or in part, set forth by the applicant. Once adopted by the Haymarket Town Council, such proffered conditions shall be binding on the use and development of the property, and shall continue in full force and effect until a subsequent amendment changes the zoning on the property covered by such conditions; provided, however, that such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance and/or zoning map.

4.Proffered conditions adopted by the Haymarket Town Council shall be in addition to the regulations provided for the zoning district by the text of this chapter. Except as standards that are specifically permitted to be modified or waived by the Haymarket Town Council, as part of a rezoning or special use Permit approval, development shall conform to mandatory standards in effect at the time of final plan approval if such standards exceed proffered conditions accepted at the time of rezoning.

5.The zoning map, and other appropriate files maintained by the Zoning Administrator, shall reference the existence of adopted proffered conditions attached to various properties. Any site plan, subdivision plan, development plat or permit application thereafter submitted for development of property to which proffered conditions have attached shall conform with all such conditions, and shall not be approved by any Town official in the absence of such conformity. For the purpose of this section, conformity shall mean such conformity which leaves a reasonable margin of adjustment due to final engineering data, but conforms with the general nature and intent of the development, the specific uses, and the general layout depicted by the plans, profiles, elevations, and other demonstrative materials presented by the applicant.

6.Minor Modifications. In addition to those determinations the Zoning Administrator may make pursuant to 58-3.30, the Town Planner may make minor modifications as follows:

(a)At the request of an applicant, minor modifications of adopted proffers shall be approved by the Town Planner or designee without requiring a subsequent amendment to the zoning of the property or the adopted proffered conditions. The Town Planner shall only approve a minor modification when the modification meets the definition of conformity specified in Paragraph 5 of this section.

(b)Minor modifications shall not be approved when the modification would exceed minimum or maximum standards prescribed by this chapter. Subsequent minor modifications of adopted proffers which have already been modified shall be permitted in accordance with the provisions of this paragraph, provided that the cumulative degree of modification does not exceed minimum or maximum standards prescribed by this chapter.

(c)For the purpose of this section, minor modifications shall be determined to conform with the adopted proffers when the modification meets one or more of the following criteria:

(i)An increase in the maximum number of children approved for a child-care facility, so long as the approved number does not exceed (1) 5% of the maximum number of children listed in the adopted proffered conditions; or (2) additional children, whichever is greater. The approval of a minor modification shall not increase the maximum number of children permitted for a child-care facility beyond a maximum prescribed by the Code of Virginia or any other applicable law or regulation.

(ii)An increase in the permitted number of adults for an adult day-care facility, so long as the

approved number does not exceed (1) 5% of the maximum, number of adults listed in the adopted proffers; or (2) one additional adult, whichever is greater, and so long as the minimum off-street parking requirement can be attained.

(iii)An increase in the maximum number of students approved for a private school, so long as the approved number does not exceed 5% of the maximum number of students listed in the adopted proffered conditions.

(iv)A modification to the approved building materials, architectural style, or color of building design features, so long as the overall intent as depicted in the approved proffers is maintained.

(v)An increase in the permitted number of employees, so long as the approved number does not exceed (1) 5% of the maximum employees listed in the adopted proffered conditions; or (2) one additional employee, whichever is greater and so long as the minimum off-street parking requirement can be attained.

(vi)An increase in the number of rooms or units at an assisted living facility, so long as the approved increase does not exceed (1) 5% of the maximum number, listed in the adopted proffered conditions; or (2) additional rooms, whichever is greater.

(vii)Changes in a building's minimum floor area ratio (FAR) specified in an adopted proffered condition, so long as the building's gross floor area is increased or reduced by no more than 0.1 FAR and so long as the maximum gross floor area is not increased beyond the maximum gross floor area prescribed in the zoning district standards.

(viii)Changes in a building's minimum or maximum height specified in an adopted proffered condition, so long as the building's height is increased or reduced by no more than 10 feet and so long as the height is not increased beyond the maximum height prescribed in the zoning district standards.

(ix)Changes to a stormwater management facility as depicted on an approved master zoning plan or approved generalized development plan, so long as no additional land disturbance would be required beyond that shown in the plan's limits of clearing and grading to the satisfaction of the Public Works Director, or designee.

(x)Minor changes to the site layout or configuration, provided impacts to adjacent properties are mitigated.

Sec. 58-4.18. - Conditional zoning enforcement.

1.The Zoning Administrator shall be vested with all necessary authority on behalf of the Haymarket Town Council to enforce conditions that have attached to Special Use Permits, or to rezonings (zoning map amendments) which have been proffered by an applicant for rezoning and accepted by the Haymarket Town Council in accordance with the provisions of the chapter. The Zoning Administrator may, in exercise of his discretion, issue a violation notice and correction order that orders the remedy of any noncompliance with any such conditions, or bring legal action to ensure compliance including injunction, abatement or other appropriate action or proceeding including the institution of criminal process; or any combination of the above deemed necessary to obtain compliance.

2.As part of the bonding procedures established, the Zoning Administrator or other Town official designated by the Administrator may require with final plans of any owner a guarantee (bond, assurance, sanction) satisfactory to the Haymarket Town Council in an amount sufficient for and conditioned upon the construction of any physical improvements required by such conditions or a contract for the construction of such improvements and

the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced or released by the Town Planner upon the submission to the Administrator or his designee of satisfactory evidence that the construction of such improvements has been completed in whole or in part, as appropriate.

3.Failure to meet or comply with any such condition shall be sufficient cause to deny the approval of site plans, subdivision plans, or the issuance of building permits, occupancy permits or other permits or licenses, as may be appropriate. Upon receipt by any public official of appropriate written notice of failure to meet such conditions, signed by the Zoning Administrator, said public official shall not issue any approvals, permits or licenses to the alleged violator until such official has received written notification from the Zoning Administrator that the applicant for approvals, permits or licenses has remedied all noncompliance with the such conditions.

4.Any applicant for approvals, permits or licenses who is aggrieved by a decision of the Zoning Administrator pursuant to the provisions of this section may petition either the Haymarket Town Council or the Board of Zoning Appeals for a review thereof, by filing a written notice thereof with the Town Clerk and the Zoning Administrator within 30 days after notice of the decision has been received. Said 30-day period shall be deemed jurisdictional. Such notice shall set forth with reasonable specificity the basis for such appeal and shall include payment of such fee as may be set by the Haymarket Town Council. The Haymarket Town Council or the Board of Zoning Appeals shall act upon any appeal within 30 days unless there is no regular meeting scheduled, in which case the Haymarket Town Council or the Board of Zoning Appeals shall act at its next regular meeting. The decision of the Haymarket Town Council or the Board of Zoning Appeals on such appeal shall be final.

Sec. 58-3=4.19. - Review of text and map amendments.

Every proposed amendment to the text of this chapter or zoning map shall be reviewed as provided for in the following sections.

Sec. 58-3=4.20. - Review by the Town Planner; comment by reviewing agencies.

1.When an amendment to the text of this chapter has been proposed, and when an amendment to the zoning map has been initiated, the Town Planner shall cause the amendment to be expeditiously reviewed by such staff, departments, offices, agencies, or other personnel as he finds appropriate.

2.In the case of an application for a zoning map amendment, the review shall include an examination of the applicant's proffer statement, if any. The Town Planner, or his designee, may suggest revisions to the proffer statement in order to clarify the proffers volunteered by the applicant. In addition, before the application is scheduled for a public hearing before the planning commission, the Town Planner or his designee shall present to the applicant a summary of the findings of the review in order that the applicant may make modifications of his application should he desire to do so. No substantial change shall be made in any proffered condition after the public hearing commences before the Haymarket Town Council, unless it is readvertised in accordance with the provisions of this chapter.

3. Proposed amendments shall be considered with reasonable consideration for the:

(a)Existing use and character of the area;

(b)Suitability of the property for various uses;

(c)Trends of growth or change;

(d)Current and future requirements of the Town as to land for various purposes as determined by population and economic studies and other studies;

(e)Transportation requirements of the community and the Town's requirements for parks, playgrounds,

recreation areas, other public services, or the conservation of natural resources and preservation of floodplains; and

(f)Conservation of properties and their values and the encouragement of most appropriate use of land throughout the Town.

These considerations shall include but are not limited to comprehensive plans or their parts, capital improvement programs, relation of development to roads and construction programs, and the proximity of the development to utilities and public facilities.

4.Reviewing agencies shall evaluate the application. A written summary of their findings and recommendations shall be forwarded to the Town Planner in accordance with the schedule established for the application.

5.After the Town Planner shall have presented a summary of the review findings to the applicant, the application shall be referred to the planning commission for public hearing. The Town Planner shall not be required to refer such application immediately, but shall consider the applicant's preference, the planning commission's schedule, and the appropriate use of Town staff.

6.When referring an application to the planning commission, the Town Planner shall cause a report to be prepared for the commission's review, and such report shall include a recommendation on the application.

7.Amendments to the zoning map not initiated by an application of a property owner, and amendments to the text of this chapter, shall be referred to the planning commission in a timely fashion after a report, including recommendation, shall have been prepared by the Town Planner or his designee.

Sec. 58-4.21. - Consideration by the planning commission.

1.The planning commission shall hold at least one (but may hold more than one) public hearing on all text and map amendments. The commission may continue a public hearing until another date; or close a public hearing but continue consideration of the amendment until another date; or it may make its recommendation following the first public hearing. In addition, the commission may reopen a closed public hearing to receive additional public comment, provided notice of such a reopened hearing shall be given in accordance with the provisions of this chapter. At the first public hearing (and at subsequent hearings as is necessary) the Town Planner, or his designee, shall present to the commission the report and recommendation of the Planning Office.

2.The planning commission shall have 90 days from the date of the first public hearing to consider an amendment to the text, the zoning map, or both. Failure of the commission to make a recommendation within the 90-day time period shall be deemed a recommendation of approval. However, if at any time after the date of the first public hearing an applicant shall make a change in the application, the commission shall have 90 days from the date the change is presented to the Town Planner within which to consider and make a recommendation on the amendment.

3.An applicant for a zoning map amendment may request that consideration of (and the recommendation on) his application be deferred past the 90-day time period established in subsection 2. above. Such request shall be submitted in writing to the chairman of the planning commission and the Town Planner before the public hearing, or, if such a request is made at the public hearing, it shall be reduced to a written request within five days. Such request, and the commission's resolution of deferral, shall contain a date certain for holding or resuming the public hearing. The commission shall then have 90 days from the date to which the application was deferred to consider and make a recommendation on the application, and failure to do so within that time period shall be deemed a recommendation for approval.

4.In making its recommendation to the Haymarket Town Council, the commission may recommend approval or denial of an amendment, or any part thereof as the public necessity, convenience, general welfare or good

zoning practice may require. The commission may also recommend modifications to an amendment, including, in the case of a zoning map amendment, a different zoning classification than requested, provided that if the zoning classification recommended is a more intense, or higher, classification than that requested, at least one additional public hearing, with notice given in accordance with the provisions of this chapter, shall be held. The commission may also, in the case of a zoning map amendment, recommend reducing the area of the proposed amendment; or may recommend increasing the area of the proposed amendment provided at least one additional public hearing, with notice given in accordance with the provisions of this chapter, is held.

Sec. 58-3=4.22. - Consideration by the Haymarket Town Council.

1.Following the planning commission's recommendation on an amendment, the Haymarket Town Council shall hold at least one (but may hold more than one) public hearing on such amendment, with notice given in accordance with the provisions of this chapter. At such hearing(s) the Town Planner, or his designee, shall present to the Haymarket Town Council the report and recommendation of the planning commission and the Planning Office.

2.The Haymarket Town Council may continue a public hearing until another date; or close a public hearing but continue consideration of the amendment until another date; or it may take action following the first public hearing. The Haymarket Town Council shall have one year from the date a zoning map amendment is initiated to act on the amendment, unless the applicant requests or consents to action beyond such period. This time period shall not include any length of time an application for a zoning map amendment was deferred at the request of the applicant. In addition, whenever an applicant shall make a change in his application, the one-year time period shall run from the date the change is received by the Town Planner.

3.Once notice of a public hearing before the Haymarket Town Council on an amendment is given in accordance with the provisions of this chapter, the applicant may make a substantial change in his application only if the application is referred back to the planning commission for further consideration and recommendation. In such a case, the process described in section 32-700.42 of this chapter shall apply. The Haymarket Town Council shall determine whether a change is substantial.

4.In considering an amendment, the Haymarket Town Council may approve or deny the amendment, or any part thereof as the public necessity, convenience, general welfare or good zoning practice may require. In the case of an amendment to the zoning map, the Haymarket Town Council may approve an amendment to a lesser area than initiated, and may approve a less intense, or lower, zoning classification than initiated. If the Haymarket Town Council desires to consider a zoning map amendment for a greater area, or to a more intense, or higher, zoning classification than initiated, the amendment shall be referred back to the planning commission for further consideration and recommendation. In such a case, the process described in section 58-3.21 of this chapter shall apply.

Sec. 58-4.23. - Matters to be considered in reviewing amendments.

The planning commission, in considering its recommendation on an amendment, and the Haymarket Town Council, in considering what action to take on an amendment, shall review the amendment with consideration for the purposes and intent of this chapter. In addition, only those written and graphic materials that have been referenced in a proffer statement may be displayed at any public hearing before the planning commission or the Haymarket Town Council.

Sec. 58-4.24. - Interpretation by Zoning Administrator.

In determining whether site and subdivision plans submitted are in conformity with a zoning map amendment, the Zoning Administrator shall give weight to the following, in descending order of importance:

- 1.This chapter 58.

2. Any other applicable federal, state or local law, ordinance or regulation.
3. The applicant's proffer statement, if any.
4. The master zoning plan, if any.
5. The development analysis, if any.
6. The staff report prepared for consideration by the Haymarket Town Council at the time of rezoning.

Sec. 58-4.25. - Application for a Special Use Permit.

1. An application for a Special Use Permit may be made by a property owner, for his property, for any Special Use Permitted in the zoning district in which his property is located. A duly authorized agent for an owner may make application, provided a legally sufficient power of attorney, meeting the requirements of subsection 58-3.7.1(c) as approved by the Town Attorney's office, has been executed.

2. In addition to an application by a property owner, a Special Use Permit application may be initiated by resolution of the Haymarket Town Council, or by resolution of the planning commission.

3. An application for a Special Use Permit shall be made to the Planning Office and shall include the items listed in this section. Except for the filing fee, and unless otherwise determined at a pre application conference by the Town Planner or his designee, 8 collated sets of the following information shall be submitted:

(a) Those items listed by subsections **58-3.11.1, 58-3.11.2, 58-3.11.3 and 58-3.11.5 through 58-3.11.12.**

(b) A Special Use Permit plan. The elements required in the Special Use Permit plan shall be determined by the Town Planner or his designee following the pre application conference required by section Sec. 58-3.9 based upon the size, scale, complexity and impact of the proposed request. When required, each element of the Special Use Permit plan shall conform to the standards set forth hereafter unless specifically waived or modified by the Town Planner or his designee:

- (1) An environmental constraints analysis in accordance with section 58-3.12.6.
- (2) Phasing plan, if applicable.
- (3) Special signage proposals, if desired.
- (4) General site grading plan.

(c) Other information as desired by the applicant.

(d) Such additional information as may be reasonably required by the Town in order for the Planning Office, the planning commission, or the Haymarket Town Council to make a proper evaluation of the proposal, such as but not limited to:

- (1) Hours of operation.
- (2) Estimated number of patrons, clients, patients, pupils, etc.
- (3) Estimate the distribution of traffic by mode and time of day.

4. Except for the filing fee, the Town Planner may waive the submission requirements, or any

portion thereof, set forth in subsection 3. above, provided such information is not necessary for the proper review of the application.

5.The Town shall be under no obligation to accept an application for a Special Use Permit if it does not meet all of the requirements of section 32-700.50 of this chapter.

Sec. 58-4.26. - Review process for an application for a Special Use Permit.

An application for a Special Use Permit shall be reviewed in a manner similar to an application for a zoning map amendment, as set forth by sections 58-3.20, 58-3.21 and 58-3.22 of this chapter, provided, however, that the one year time limit in section 58-3.22 shall not apply.

Sec. 58-4.27. - Concurrent processing.

Site and subdivision plans can be concurrently processed with a Special Use Permit application consistent with the long range land use designation of the Comprehensive Plan upon the request of the applicant if the applicant acknowledges responsibility for costs related to site and subdivision plan submittal regardless of whether the Special Use Permit application is approved or denied. The submission of plans may not be accepted until the first round of comments have been received from Special Use Permit application review agencies.

Sec. 58-4.28. - Matters to be considered in reviewing an application for a Special Use Permit.

The planning commission, in considering its recommendation on an application for a Special Use Permit, and the Haymarket Town Council, in considering what action to take on an application for a Special Use Permit, shall review such an application with consideration for the following factors:

1.The nature of the proposed use, including factors such as traffic, noise, light, hours of operation, and number of employees involved.

2.The character of the existing area, including existing structures and structures under construction, existing public facilities and public facilities under construction, and private, commercial and/or service facilities available within the existing area.

3.The area's designation on the Town's Comprehensive Plan, and relevant text provisions of the plan.

4.The minimum off-street parking area required and the amount of space needed for the loading and unloading of trucks.

5.Whether the public health, safety and welfare will be preserved, and any reasonable conditions necessary for such preservation.

6.Any other factors relating to the purposes of zoning that the planning commission and/or Haymarket Town Council, in its legislative discretion, shall consider as relevant.

Sec. 58-4.28. - Conditions attached to the approval of a Special Use Permit.

1.In approving a Special Use Permit, the Haymarket Town Council may attach reasonable conditions, including an expiration date, to such approval with or without the applicant's consent. Once a Special Use Permit is approved with conditions attached, such conditions shall be considered as a part of the text of this chapter, and may be administered and enforced by the Zoning Administrator. A violation of an attached condition shall be

considered a violation of this chapter.

2.A condition attached to the approval of a Special Use Permit may only be modified by a subsequent application for a Special Use Permit or by the approval of a minor modification in accordance with Sec. Sec. 58-3.30.

Sec. 58-4.29. - Special Use Permit general provisions.

1.After approval of a Special Use Permit by the Haymarket Town Council, the applicant shall have one year to submit site or subdivision plans for the approved use and shall occupy the site and commence the use within five years of approval of the site plan, provided that the Haymarket Town Council may allow, at the time and as part of approval, a longer period. If the use has not begun as provided above, the Special Use Permit shall be void, and the use may not thereafter be begun except upon approval of another Special Use Permit.

2.After approval of a Special Use Permit by the Haymarket Town Council, the use approved may intensify and/or expand, provided that any conditions attached to the approval shall not be violated. If intensification and/or expansion will violate any attached conditions, the intensification and/or expansion may be reviewed and approved as a minor modification or minor deviation pursuant to Sec. 58-3.30. Intensifications and/or expansions which cannot be authorized as described herein and which are ineligible for review as a minor modification or minor deviation shall not be approved unless a subsequent Special Use Permit application is approved that reflects the intensification and/or expansion.

3.Except for family day-care permitted and not conditioned upon site plan approval, all uses permitted by a Special Use Permit shall require site plan approval in accordance with the provisions of this chapter.

4.If an approved special use ceases operation for a period of one year, for any reason, the Special Use Permit shall become void, and thereafter the use may only be conducted after another Special Use Permit has been approved.

5.A Special Use Permit shall be transferable with the land, provided that the use for which it was obtained does not change.

6.Unless otherwise provided in the permit, a Special Use Permit shall have an indeterminate duration provided that the use for which it was obtained is commenced as required in subsection 2. and continues without abandonment as provided in subsection 4. in accordance with its terms.

Sec. 58-4.30. - Special Use Permit deviation.

Minor deviations from an approved Special Use Permit plan are allowed without filing of a new Special Use Permit application provided all deviations are shown on a site or subdivision plan. The Zoning Administrator shall determine, prior to the approval of site or subdivision plans, that the deviation(s) do not substantially alter conditions of the approved Special Use Permit or the approved Special Use Permit master plan. If the Zoning Administrator can not authorize a minor deviation as described herein, the deviation may be reviewed and approved as a minor modification pursuant to Paragraph 1 below. Minor deviations which cannot be authorized as described herein and which are ineligible for review as a minor modification may only be modified by a subsequent application for a Special Use Permit.

1.Minor Modifications. In addition to those determinations the Zoning Administrator may make pursuant to 58-3.30, the Town Planner may make minor modifications as follows:

(a)At the request of an applicant, minor modifications of adopted Special Use Permit conditions shall be

approved by the Town Planner or designee without requiring a subsequent amendment to the Special Use Permit or the adopted conditions. Town Planner shall only approve a minor modification when the modification meets the definition of conformity specified in Paragraph 5 of Sec. 58-3.17.

(b)Minor modifications shall not be approved when the modification would exceed minimum or maximum standards prescribed by this chapter. Subsequent minor modifications of adopted Special Use Permit conditions which have already been modified shall be permitted in accordance with the provisions of this paragraph, provided that the cumulative degree of modification does not exceed minimum or maximum standards prescribed by this chapter.

(c)For the purpose of this section, minor modifications shall be determined to conform with the adopted Special Use Permit conditions when the modification meets one or more of the following criteria:

(i)An increase in the maximum number of children approved for a child-care facility, so long as the approved number does not exceed 5% of the maximum, or a minimum of one, whichever is greater, number of children listed in the adopted Special Use Permit conditions. The approval of a minor modification shall not increase the maximum number of children permitted for a child-care facility beyond a maximum prescribed by the Code of Virginia or any other applicable law or regulation.

(ii)An increase in the permitted number of adults for an adult day-care facility, so long as the approved number does not exceed (1) 5% of the maximum number of adults listed in the adopted Special Use Permit conditions; or (2), one additional adult, whichever is greater and so long as the minimum off-street parking requirement can be attained.

(iii)An increase in the maximum number of students approved for a private school, so long as the approved number does not exceed (1) 5% of the maximum number of adults listed in the adopted Special Use Permit conditions; or (2), one additional student, whichever is greater.

(iv)A modification to the approved building materials, architectural style, or color of building design features, so long as the overall intent as depicted in the approved Special Use Permit conditions shall be maintained.

(v)An increase in the permitted number of employees, so long as the approved number does not exceed (1) 5% of the maximum employees listed in the adopted Special Use Permit conditions; or (2) one additional employee, whichever is greater and so long as the minimum off-street parking requirement can be attained.

(vi)An increase in the number of rooms or units at an assisted living facility, so long as the approved increase does not exceed (1) 5% of the maximum number listed in the adopted Special Use Permit conditions; or (2) one additional room, whichever is greater.

(vii)Changes in a building's minimum floor area ratio (FAR) specified in an adopted Special Use Permit condition, so long as the building's gross floor area is increased or reduced by no more than 0.1 FAR and so long as the maximum gross floor area is not increased beyond the maximum gross floor area prescribed in the zoning district standards.

(viii)Changes in a building's minimum or maximum height specified in an adopted Special Use Permit condition, so long as the building's height is increased or reduced by no more than 10 feet and so long as the height is not increased beyond the maximum height prescribed in the zoning district standards.

(ix)Changes to a stormwater management facility as depicted on an approved Special Use Permit

plan, so long as no additional land disturbance would be required beyond that shown in the plan's limits of clearing and grading, to the satisfaction of the Public Works Director or designee.

(x)Minor changes to the site layout or configuration, provided impacts to adjacent properties are mitigated.

(d)Minor modifications to mobile and land-based telecommunications facilities shall be subject to the standards specified in Part 240.

Sec. 58-4.31. - Revocation of Special Use Permits.

1.The Haymarket Town Council may, by resolution, initiate a revocation of a Special Use Permit. When initiated, the revocation process shall be handled as would a new application for a Special Use Permit, following the procedures set forth in section 58-3.25 of this chapter.

2.After review by the Planning Office and consideration and recommendation by the planning commission, the Haymarket Town Council shall act on the proposal to revoke the Special Use Permit. Grounds for revocation shall include (but not be limited to) the following:

(a)A change in conditions affecting the public health, safety and welfare since adoption of the Special Use Permit; or

(b)Repeated violations of this chapter, including any conditions attached to the Special Use Permit, by the owner/operator of the use; or

(c)Fraudulent, false or misleading information supplied by the applicant (or his agent) for the Special Use Permit; or

(d)Improper public notice of the Special Use Permit public hearing(s) when the permit was considered by the planning commission or the Haymarket Town Council; or

(e)An error or mistake in fact that led to an arbitrary and unreasonable decision made by the Haymarket Town Council when approving the Special Use Permit.

Sec. 58-4.32. - Refiling following denial; withdrawal; deferral.

1.Upon denial of any application by a property owner for an amendment or Special Use Permit, no further application concerning any or all of the same property that is substantially the same as the application denied shall be made within one year from the date of such denial.

2.An application for an amendment or Special Use Permit may be withdrawn at any time; provided, that if the request for withdrawal is made after publication of the notice of any public hearing, no application for substantially the same amendment or Special Use Permit on all or any part of the same property may be filed within six months of the withdrawal date.

3.In no event shall there be any refund of fees in the case of withdrawal after publication of the notice of any public hearing.

4.Whenever consideration of an amendment or Special Use Permit is deferred after notice of any public hearing has been first published, the applicant shall bear the additional advertising costs.

Sec. 58-4.33. - Dismissal of applications.

If an applicant refuses or neglects to pursue his application for an amendment or a Special Use Permit, the Haymarket Town Council may by resolution declare the application dismissed. Notice of intent to dismiss an application shall be sent certified mail, return receipt requested, to the applicant at the address listed on his application at least 15 days prior to the date the Haymarket Town Council has scheduled action on the proposed dismissal. If an application is dismissed, no fees shall be refunded, and for an application for a map amendment no other application substantially the same as the one dismissed shall be filed within one year of the date of dismissal.

Sec. 58-4.34. - Appeals.

Every action contesting a decision of the Haymarket Town Council adopting or failing to adopt a proposed zoning ordinance or amendment thereto affecting the map or text of this chapter or granting or failing to grant a special exception shall be filed within 30 days of such decision with the Circuit Court having jurisdiction of the land affected by the decision.

ARTICLE V. – ENFORCEMENT

Commented [47]: Emily/Bob

Sec. 58-5.1 -Inspection Warrants

The zoning administrator or his agent may make an affidavit under oath before a magistrate or circuit court, and if such affidavit establishes probable cause that a zoning ordinance violation has occurred, request that the magistrate or court issue the zoning administrator or agent an inspection warrant to enter and inspect the subject dwelling. The zoning administrator or his agents shall make a reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant.

Sec. 58-5.2 – Notice of Zoning Violation

- (a) Upon becoming aware of any violation of the provisions of this chapter, the Administrator may issue written notice of such violation to the owner of the property, or the owner's agent, and to the person committing or permitting the violations, if different from the owner. Notice shall be mailed by registered or certified mail or hand delivered.
- (b) The notice of violation shall state the nature of the violation, date that it was observed, the remedy or remedies necessary to correct the violation and a reasonable time period for the correction of the violation.
- (c) Every written notice of violation of the Administrator shall include a statement informing the recipient that he or she may have a right to appeal the notice of zoning violation or written order within 30 days in accordance with this section. The decision shall be final and unappealable if not appealed within 30 days.
- (d) If the recipient chooses to appeal, an appeal fee shall be submitted as established by a Council adopted Fee Schedule.
- (e) Appeals shall be heard by the Board of Zoning Appeals in accordance with the procedures set forth in Article VI of this chapter.

Sec. 58-5.3 - Penalties for violation of chapter.

- (a) Upon becoming aware of any violation of the provisions of this chapter, the Administrator may proceed to issue a civil summons consistent with Code of Virginia, § 15.2-2209.
- (b) Any person violating this chapter shall be guilty of a misdemeanor punishable as provided by state code.
- (c) The violation may be prosecuted as a criminal misdemeanor.
- (d) If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or

remedy the violation in compliance with this chapter, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate offense punishable by an additional civil fine and any other penalties as ordered by the court.

- (e) The description of any lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring a lot shall not exempt the transaction from any penalties for violation of the subdivision ordinance, or from the remedies provided in this chapter.

State Law reference— Penalties for violation of zoning ordinance, Code of Virginia, § 15.2-2286(A)(5).

ARTICLE VI. - PROVISIONS FOR APPEAL^[9]

Footnotes:
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State Law reference— Boards of zoning appeals, Code of Virginia, § 15.2-2308 et seq. Sec. 58-5.1 - Board of zoning appeals generally.

(a) A board of zoning appeals (BZA) consisting of five members shall be appointed by the circuit court of the county.

Sec. 58-6.1 - Rules and regulations of board of zoning appeals.

- (a) The board of zoning appeals shall adopt such rules and regulations as it may be considered necessary.
- (b) All meetings of the board shall be open to the public unless a closed session consistent with the Virginia FOIA laws is properly convened and certified.
- (c) The Administrator shall maintain all records of the BZA.

Sec. 58-6.2 - Appeal procedure.

- (a) Appeals shall be conducted in a manner consistent with the Code of Virginia.
- (b) Appeals requiring an advertised public hearing shall be accompanied by a fee as set by the Town Council, payable to the Treasurer of the Town.

ARTICLE VII. MINIMUM OFF-STREET PARKING AND LOADING

Sec. 58-7.1 - Minimum off-street parking and loading.

- (a) *Minimum standards.* At the time of erection of any main building, or at the time any main building or its accessory uses is enlarged or the use changed, all provisions of article XIII shall be met along with minimum required off-street parking and loading space with adequate provision for entrance and exit of motor vehicles, in accordance with the following table.
- (b) Parking space as required in this section shall be on the same lot with the main building; except that in the case of buildings other than dwellings, spaces may be located as far away as 750 feet. Every parcel of land used as a public parking area and motor vehicle ways shall be surfaced with all weather surfaces, excluding gravel surfaces. It shall have appropriate guards where needed as determined by the administrator. Any lights used to illuminate such parking areas shall be so arranged as to reflect the light away from adjoining premises in a residential district.

Table of Parking Requirements

Abbreviations:

- GFA means gross square feet of floor area, as defined
- NFA means net square feet of floor area, as defined. For the purposes of these parking standards, Net Floor Area (NFA) is equivalent to 75% of the Gross Floor Area
- SF means square feet
- DU (d.u.) means dwelling unit
- BR means bedroom

Note: 'employee' always refers to the number of employees on the largest shift

Note: Code of Virginia, § 15.2-2291 requires that **group homes** be regulated like single family homes

Residential		
<i>Uses</i>	<i>Minimum Parking</i>	<i>Minimum Loading</i>
Single family detached dwelling	2 per dwelling unit, exclusive of garage	-
Single family attached and two family (townhouse and duplex)	2.25 per d.u. Inclusive of minimum of .25 for visitor parking which must be distinct from d.u.)	-
Apartments on second floor of structures designed for commercial use	1.5 per d.u. (spaces must be assigned to each dwelling)	-
Assisted living facility	1 per 4 d.u. plus 1 per employee	-
Active adult/ age restricted	1.5 per d.u.	-
Accessory apartment (as defined)	1 per d.u.	-
Group Home	See standard for the residential unit type	-

~~Sec. 58-4.6 – Limitation on re-filing a petition following denial.~~

~~Upon denial of any petition to change a zoning district, no further petition concerning any or all of the same property for amendment to the same zoning district as applied for in the petition denied shall be filed within one year of such denial.~~

~~Sec. 58-4.7 – Withdrawal of petition.~~

~~An application for an amendment may be withdrawn at any time; provided that, if the request for withdrawal is made after the notice of public hearing, no application for the reclassification of any or all of the same property shall be filed within six months of the withdrawal date. There shall be no refund of fees in the case of a withdrawal.~~

~~Sec. 58-4.8 – Deferral upon request of applicant.~~

~~Nothing in this article shall deny the applicant the consideration to request a deferral of his petition. However, any request for deferral must be submitted in writing nine days prior to any scheduled meeting or public hearing affecting the application in question; and the Planning Commission or Town Council, upon receipt of such request, must agree that such deferral may allow for the production of substantial information affecting the appropriateness of the request with the comprehensive plan.~~

~~Sec. 58-4.9 – Matters to be considered in reviewing proposed amendments.~~

~~Proposed amendments shall be considered with reasonable consideration for the:~~

- ~~(a) Existing use and character of the area;~~
- ~~(b) Suitability of the property for various uses;~~
- ~~(c) Trends of growth or change;~~
- ~~(d) Current and future requirements of the Town as to land for various purposes as determined by population and economic studies and other studies;~~
- ~~(e) Transportation requirements of the community and the Town's requirements for parks, playgrounds, recreation areas, other public services, or the conservation of natural resources and preservation of floodplains; and~~
- ~~(f) Conservation of properties and their values and the encouragement of most appropriate use of land throughout the Town.~~

~~These considerations shall include but are not limited to comprehensive plans or their parts, capital improvement programs, relation of development to roads and construction programs, and the proximity of the development to utilities and public facilities.~~

~~Sec. 58-4.10 – Conditions as part of rezoning or zoning map amendment.~~

~~A landowner may voluntarily proffer in writing reasonable conditions, prior to a public hearing before the Council, in addition to the regulations provided for the zoning district or zone by this chapter, as a part of a rezoning or amendment to a zoning map, provided that the rezoning itself gives rise to the need for the conditions, such conditions have a reasonable relation to the rezoning, and all such conditions are in conformity with the comprehensive plan as defined in Code of Virginia, § 15.2-2223, as amended. Once proffered and accepted as part of an amendment to this chapter, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions; however,~~

Sec. 58-4.1. - Statement of purpose and intent.

The Council finds that a portion of the police power of the Commonwealth has been delegated to each Town, to be exercised reasonably in determining the manner of its development. The state legislature has left much discretion to the Town in making such determinations, relying on the local governing body's knowledge of local conditions and the needs of its individual communities. Public necessity, health, safety, convenience, general welfare, and good zoning practice provide guiding factors for the Council in its quest to exercise its legislative mandate in formulating a reasonable policy of Town planning for the general good and welfare.

Sec. 58-4.2. - Amendments generally.

The intent of this section is to provide (pursuant to §§ 15.2-2296—15.2-2303 of the Code of Virginia), a more flexible and adaptable zoning method to cope with situations found in zones whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned.

Changes in the zoning restrictions applicable to any parcel of land in the Town of Haymarket may be effected in accordance with the provisions of this chapter through approval by the Haymarket Town Council in any of the following ways:

- 1.Zoning text amendments; or
- 2.Zoning map amendment (rezoning), including modification of proffers; or
- 3.Special Use Permit approval.

Sec. 58-4.3. - Conflict of interest.

When a zoning application is filed by a property owner, such petition shall be sworn to under oath before a notary public, stating whether any member of the Haymarket Town Council or the Planning Commission has an interest in such property, whether individually, by ownership of stock in a corporation owning such land or by partnership, or whether a member of the immediate household of any member has such interest. For the purpose of this section, own or have any interest in shall mean being a holder of ten percent or more of the outstanding shares of stock in or serving as a director or officer of any corporation owning such land, directly or indirectly, by members of his immediate household.

Sec. 58-4.4. - Notice requirements for map amendments and Special Use Permits.

Prior to a public hearing on a map amendment, public facility determination, or Special Use Permit before the Planning Commission or Haymarket Town Council, notice as required by this section shall be given. The Planning Commission shall not recommend nor the Haymarket Town Council approve any amendment or Special Use Permit until such notice is given. Notice of amendments or Special Use Permits need not be advertised in full, but may be advertised by reference, provided that the place where copies of such amendments or Special Use Permits may be viewed shall be included in the notice. In the case of a proposed amendment to the zoning map, such public notice shall state the general usage and density range of such proposed amendment and the general usage and density range of the applicable part of the Comprehensive Plan.

1.Notice of a zoning map amendment or Special Use Permit shall be published once a week for two successive weeks (with not less than six days elapsing between the first and second publication) in a newspaper having general circulation in the Town. Notice for both the planning commission and Board of County Supervisors may

be published concurrently. Notice shall specify the time and place of the public hearing, which shall be held not less than five days nor more than 21 days after the second advertisement shall have appeared.

2. When a proposed map amendment involves a change in the zoning map classification of 25 or fewer parcels of land, written notice shall be sent by first class mail by the Town Planner, or his designee, to the owner, agent, or occupant of each parcel within 500 feet in all directions of the property to be rezoned, as well as to the owner, agent, or occupant of the property to be rezoned in the case of a rezoning initiated by the Haymarket Town Council. If any portion of a planned development district is within 500 feet of the property to be rezoned, then notice shall be given to the homeowner association within the planned development district that has members owning property located within 2,000 feet of the property to be rezoned. Notice shall be sent at least five days before the public hearing to the last known address as shown on the current real estate tax assessment books or current real estate tax assessment records, and the person sending such notice shall make an affidavit, and file it with the papers in the case, that such notice was mailed. Written notice for Special Use Permits shall be sent by first class mail by the Town Planner or his designee for such permit to the owner, agent or occupant of each property, in all directions, within 500 feet of the site of the proposed special use, as well as to the owner, agent, or occupant of the property that is the subject of the Special Use Permit in the case of a Special Use Permit initiated by the Haymarket Town Council. Such notice shall be in a form approved by the Town Planner, and shall be mailed at least five days before the date of the public hearing to the last known address as shown on the current real estate tax assessment books. If the hearing is continued, notice shall be re-mailed. The applicant shall make an affidavit that such notice was mailed in accordance with these provisions, and shall file the affidavit with the Town Planner at least five days before the date of the public hearing.

3. When a proposed map amendment involves a change in the zoning map classification of more than 25 parcels of land, written notice shall be sent by first class mail by the Town Planner, or his designee, to the owner, owners or their agents of each parcel of land involved. Notice shall be sent at least five days before the public hearing, one notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that the Town Planner, or his designee, shall make affidavit that such mailings have been made, and shall file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequent adopted amendment or ordinance because of the inadvertent failure by the Town Planner, or his designee, to give written notice to the owner, owners or their agents of any parcel involved.

4. Notice of a map amendment or Special Use Permit shall be given by the posting of at least one sign on the property involved at least 15 days prior to the date of the public hearing. Additional signs shall be required for properties with more than one road frontage, or properties with more than 200 feet of frontage along one road. Such signs shall be supplied by the Town Planner, and shall be posted by the applicant, who shall make an affidavit that posting in accordance with these provisions was done, and shall file such affidavit with the Planning Director within three days after posting of the property. Such signs shall be posted between three and six feet in height in the following manner:

(a) All signs shall be posted so as to assure the greatest public visibility practical. Signs shall be posted adjacent to the street right-of-way abutting the site, no more than ten feet from the edge of said right-of-way. If more than one street abuts the site, at least one sign shall be posted along each abutting street. If no street abuts the site, at least one sign shall be posted along the closest public street, with a note added to locate the property in direction and distance from the sign. If more than one sign is posted along the same road frontage, such signs shall be posted at least 200 feet apart.

(b) The applicant shall be responsible for maintaining the signs in good condition until the public hearing, and shall replace damaged or removed signs as soon as practical. It shall be a violation of this chapter to damage or remove a public notice sign erected under these provisions, and each sign shall carry a warning to this effect.

(c)All signs shall be removed by the applicant within ten days of the final action of the planning commission and/or Haymarket Town Council.

5.In the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessee's association, respectively, in lieu of each owner.

6.A party's actual notice of, or active participation in, the proceedings for which written notice is required, shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.

7.When (i) a Comprehensive Plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public use airport, then written notice shall be given consistent with Code of Virginia, § 15.2-2204(D).

8.When a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice shall be given consistent with Code of Virginia, § 15.2-2204(B).

9.When a proposed amendment to the zoning ordinance or application for public facility determination or Special Use Permit includes a proposal to exceed the maximum height permitted within the subject zoning district, written notice as required in Subsections (2) and (3) above shall be provided to the owner, agent, or occupant of each parcel within 1,320 feet in all directions of the land involved.

Sec. 58-4.5. - Notice of zoning text amendments.

1.Prior to a public hearing on a zoning text amendment before the planning commission or Board of County Supervisors, notice as required by this section shall be given. The planning commission shall not recommend nor the Board of County Supervisors approve any zoning text amendment until such notice is given. Notice of such amendment need not be advertised in full, but may be advertised by reference, provided that the place where copies of such amendments may be viewed shall be included in the notice.

2.When a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of more than 25 parcels of land, then, in addition to the advertising requirements of section Sec. 58-3.4.1, written notice shall be given by the Planning Director, or his designee, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Code of Virginia, §§ 15.2-2240 et seq., where such lots are less than 11,500 square feet. Nothing in this subsection shall be construed as to invalidate any subsequent adopted amendment or ordinance because of the inadvertent failure by the Planning Director, or his designee, to give written notice to the owner, owners or their agents of any parcel involved.

Sec. 58-4.6. - Zoning text amendments.

1.Whenever the public necessity, convenience, general welfare or good zoning practice require, amendments to the text of this chapter may be proposed by resolution of Haymarket Town Council, or by resolution of the planning commission stating the public purposes therefore.

2.Amendments may be proposed using either specific language, or as a narrative, descriptive request.

3. When proposed, amendments shall be reviewed, considered and acted upon as set forth in sections 58-3.19 et seq., of this chapter.

4. Zoning text amendments that decrease the allowed dwelling unit density of more than 25 parcels of land shall give written notice of such amendments per section 58-3.5.

Sec. 58-4.7. - Zoning map amendments (rezoning).

1. Amendments to the zoning map, including amendments to any conditions previously proffered by an applicant and accepted by the Haymarket Town Council, may be initiated as follows:

(a) By resolution of the Haymarket Town Council; or

(b) By resolution of the planning commission; or

(c) By application of the property owner for his property. An agent for a property owner, or a contract purchaser (with the owner's written consent), may make an application on the owner's behalf, provided a legally sufficient power of attorney, as approved by the Town Attorney's office, has been executed by the owner. Such power of attorney shall provide that the Town may rely upon signature of the agent as constituting that of the owner for all purposes of this chapter unless the owner shall serve notice of revocation by registered or certified mail, upon the Town Planner. The signatures to such power of attorney or notice of revocation shall be attested. Such an application shall be deemed to have initiated a zoning map amendment only when made in proper and complete form, as set forth by this part, as applicable. In order for proffered conditions to be considered part of an application, they shall be prepared in accordance with the requirements of section 58-3.17.

2. When initiated, amendments to the zoning map shall be reviewed, considered and acted upon as set forth in sections 58-3.19, et seq. of this chapter. The Town shall be under no obligation to consider a property owner's application for a zoning map amendment that does not meet the standards set forth in sections 58-3.11 et seq. of this chapter.

3. An amendment to any planned district or proffered condition shall be considered as an amendment to the zoning map

Sec. 58-4.8. - Applications for modification or waiver of requirements.

For those minimum development standards specifically permitted by any provision of this chapter or other Town ordinance that may be waived or modified by Special Use Permit or proffer approved by the Haymarket Town Council, an application for such waiver or modification shall be made in accordance with the provisions of this Part 3 and may constitute the whole of or a part of such application.

Sec. 58-4.9. - Preapplication conference.

1. A preapplication conference may be requested by any person planning to seek a zoning map change or Special Use Permit pursuant to the provisions of this chapter.

2. The purpose of a pre application conference shall be for a property owner to outline for planning staff a proposed development of his property and to seek a determination from the Town Planner as to the submission requirements applicable to the application in accordance with the provisions of sections 32-700.21 through 32-700.25.

3. At or following the pre application conference, the Town Planner or his designee shall notify the applicant detailing the submission requirements that must be satisfied in order for the application to be deemed complete.

Sec. 58-4.10. - Zoning map amendments initiated by planning commission or Town Council.

1. Amendments to the zoning map initiated by resolution of the planning commission or Haymarket Town Council shall be prepared by the Town Planner in accordance with the requirements of this section.

2. An application for rezoning on resolution of the planning commission or Haymarket Town Council shall be deemed complete when it contains the following:

- (a) Copy of resolution initiating consideration of the zoning map change;
- (b) Description of land subject to the application;
- (c) Map depicting land subject to the application;
- (d) Existing and proposed zoning classifications of land subject to the application;
- (e) Existing zoning classification of all property within 200 feet of the parcel boundaries of the land subject to the application;
- (f) The names and addresses of all parcels subject to the application; and
- (g) The names and addresses of parcels for notice of public hearing as required by section 58-3.4.

Sec. 58-4.11. - Landowner initiated rezonings; mandatory submission requirements.

An application by an individual property owner shall be made to the Town Planner and shall include the items listed in this section. Except for the filing fee, and unless otherwise determined at a pre application conference, 6 collated sets of the following information, shall be submitted:

1. A fully completed application form (which shall be supplied by the Town Planner) signed by the property owner (or duly authorized agent). The application form shall include the name and current mailing address of the applicant and all record owners of the property with a ten percent or greater interest, the zoning classification sought, and any other information as may be reasonably required by the Town Planner on the application.

2. The latest deed for the property and an accurate plat of the property of a scale of one inch equals 100 feet or less prepared by a certified land surveyor, which shall show:

- (a) Bearings and distances of a scale of one inch represents 100 feet or less for all property lines and existing and proposed zoning district lines;
- (b) Area of land proposed for consideration, in square feet or acres;
- (c) Scale and north point;
- (d) Names of boundary roads or streets and widths of existing rights-of-way;
- (e) Each area of requested map amendment outlined in red.

3.A written boundary description of the land which is the subject of the application, which must conform to the plat information.

4.A general development plan, as set forth by section 58-4.12.

5.The names and mailing addresses, as listed in the current real estate tax assessment books or current real estate tax assessment records, of all property owners, in all directions, within 500 feet of the perimeter of the property to be rezoned. Even if less than the entire record parcel is to be rezoned, then the names and addresses of all property owners within 500 feet of the parcel boundaries shall be provided. When a proposed rezoning includes a proposal to exceed the maximum height permitted within the subject zoning district, the names and mailing addresses required herein shall be provided for all property owners within 1,320 feet in all directions of the land involved.

6.Additional information as required by sections 58-4.12. through 58-4.15.

7.A filing fee, in the amount established by the Haymarket Town Council pursuant to resolution.

8.An inventory of the historical records research completed including the maps and documents available for prehistoric and historic resources. The sources consulted for determining that the site has or does not have special significance shall be referenced, and shall include, but not be limited to the following:

- Town of Haymarket Comprehensive Plan, Cultural Resources Element.
- The Virginia Department of Historic Resources; Archaeological and Architectural Site Survey Files.
- The Prince William County Cemetery Inventory.

9.A phase I cultural resources survey, performed in accordance with the guidelines of the Virginia Department of Historic Resources, with the scope of work approved by the Town, for property that is on the Town Register of Historic Sites as shown in the Comprehensive Plan, and for property within highly sensitive areas for cultural resources on the high sensitivity areas and Town Registered Historic Sites Map of the Comprehensive Plan, or as indicated as having a medium to high potential on the application's cultural resources assessment and records check.

10.Traffic impact analysis.

11.A narrative description analyzing the consistency of the application responding to the intent, goals, policies and action strategies for each element of the Comprehensive Plan.

12.If proposed, provisions for affordable housing units for any development on which a residential component is to be constructed.

Sec. 58-4.12. - General development plan (GDP).

The elements required in the general development plan shall be determined by the Town Planner or his designee following the pre application conference required by section 58-3.9 based upon the size, scale, complexity and impact of the proposed rezoning. When required, each element of the general development plan shall conform to the standards set forth hereafter unless specifically waived or modified by the Town Planner or his designee:

1.A general development plan meeting the requirements of this section shall be submitted as part of an

application for a zoning map amendment requested by a landowner.

2.The general development plan shall be a written, graphic, and/or visual statement of the uses intended for the subject property, justification for the proposed zoning map amendment, and other information necessary for an orderly and expeditious review of the application. All data and other information shall be submitted in writing or by use of demonstrative materials.

3.All statements, plans, profiles, elevations and other demonstrative materials comprising the general development plan shall become part of the record of the hearing on the application for an amendment. Any model must be accompanied by eight-by-ten-inch clear photographs showing a top view, an isometric view and each side view of the model.

4.All written statements and all plans, profiles, elevations and other illustrative or demonstrative materials shall be presented on a sheet or sheets having a size of no larger than 24 by 36 inches. If prepared on more than one sheet, match lines shall clearly indicate where the several sheets join. All sheets shall be folded to a size not greater than nine by 12 inches.

5.Topography shall be shown by contour lines. The contour interval shall not be more than five feet. The contours shall be shaded in a graphic technique showing slope conditions of 15 to 25 percent and another distinguishing graphic technique showing greater than 25 percent slope.

6.An environmental constraints analysis showing slopes shaded as required by subsection 5 above and a proposed limits of disturbance line. The analysis shall include a written description and generalized mapping of natural site conditions, with an emphasis on those significant environmental features that could be affected by the proposed development and those that will be retained upon completion of the project. The analysis shall also describe avoidance efforts and/or mitigation techniques to minimize the environmental impacts of the proposal. The mapped information shall show the following:

(a)Approximate delineation of all wetland areas and Chesapeake Bay Resource Protection Areas;

(b)Areas of 15 percent slope and greater;

(c)Impervious and proposed pervious surfaces;

(d)Areas that will remain in a natural or undisturbed state upon completion of a project (including woodland conservation areas);

(e)Potential habitat for or actual occurrence of, endangered or threatened plant and animal species and species of special concern;

(f)One hundred-year floodplain boundary, as approved by the Federal Emergency Management Agency and/or the County;

(g)Areas of highly erodible, highly permeable, and marine clay soils; and

(h)Vegetative cover types.

7.A schematic land use plan, at a scale of one inch equals 100 feet or less shall be provided showing the proposed traffic circulation plan including major streets, connection to existing public roads and major pedestrian, or bike paths; all proposed major open space areas; the approximate location of all proposed community and public facilities and the proposed plan for all major sanitary sewers, water systems and storm water management and drainage improvements and the location of all buildings and other structures. The plan shall describe with specificity the means of transportation access to and from the property, and adjacent

properties if appropriate, and shall include an estimate, prepared by an appropriate expert, of the traffic that will be generated by the property and its use if rezoned.

8.A written statement setting forth the following shall also be included:

- (a) All use(s) proposed for the property, including a detailed description of the operation(s) and any special processes, conditions, hazards, safety concerns or impacts on public facilities or the public health, safety and welfare associated with the proposal.
- (b) Those general areas that have historic or scenic assets, or natural features deserving of protection and preservation, shall be indicated along with a statement of how protection and maintenance of same will be accomplished. Existing cemeteries shall be identified and the measures to protect them or relocate them in accordance with state law shall be addressed.
- (c) The method by which adjacent and neighboring properties shall be protected from the adverse effects of the proposed development, including vehicular access plans, proposed measures and types of landscaping and buffering, and peripheral setback and yard requirements.
- (d) The maximum height of all proposed structures in the development.
- (e) The maximum number of dwelling units proposed, maximum lot coverage, and/or maximum floor area ratio (F.A.R.) as appropriate.
- (f) The special amenities to be provided within the development, including a statement of commitment to landscaping with indigenous, drought tolerant species listed in the Zoning Ordinance.
- (g) All off-site improvements that are proposed, such as roads, water, and sewer and drainage facilities.
- (h) The proposed development phasing plan and its relationship to the applicant's provision of supportive utilities, facilities, roads and other services, including the projected wastewater flows for each phase.
- (i) Any proposed signs that will not meet the standards of sections 58-15.1 et seq. of this chapter when signage proposed for the project is specified in a proffer statement.
- (j) Additional information as desired by the applicant.
- (k) Any modifications or waivers proposed pursuant to section 58-4.8.

Sec. 58-4.13. - Requirements for a master zoning plan.

1. The master zoning plan (MZP) shall be prepared using a convenient scale so that the entire parcel can be shown on a single sheet of paper no larger than 30 inches by 42 inches. The Town Planner may approve submission of plans on more than one sheet so long as one sheet depicting the entire project is submitted.

2. Any provision of any matter submitted with the master zoning plan that is to be considered for illustrative purposes, and is not intended to comprise part of the master zoning plan shall be clearly labeled as such.

3. The elements required to be addressed in the master zoning plan shall be determined, by the Town Planner, in accordance with the provisions below, following the pre application conference in accordance with section Sec. 58-3.9, based upon the size, intensity, scope and impacts of the proposed development.

4. The master zoning plan shall include the following:

- (a) Information required for general development plans as described in section 58-3.12; and
- (b) The location of property lines, watercourses or lakes, known cemeteries, wooded areas, existing roads, entrances, subdivisions and major landmarks, which are within the property, and within 500 feet of the property.
- (c) The general boundaries of each proposed section, land use, density, or intensity, principal street systems, recreation areas or public use areas to be located within the project.
- (d) Proposed general land use areas shall be designated by land bays. The general sizes of land bays proposed for consideration shall be determined by the Town Planner as part of the pre application conference required by section 58-3.9. Designation of uses within each land bay shall be consistent with the Comprehensive Plan land use designation, in accordance with the provisions of this Chapter. Minimum and maximum development densities for residential uses or floor area ratios for nonresidential uses shall be established for each land bay and tabulated in accordance with the requirements of subsection (e) below.
- (e) A table which shows, for each land bay designated in accordance with subsection (d) above, range of the uses, number of dwelling units for residential areas or square feet of floor space for commercial, office or industrial areas and their respective acreage, which are proposed for the site.
- (f) Those specific features in response to the impacts identified in an environmental constraints analysis, pursuant to section 58-3.12.6, that the developer proposes to enhance the effects of the development through the provision of undisturbed open space. These features may be shown on one or more sheets, or submitted in narrative form, or both, provided they are clearly labeled as part of the master zoning plan or incorporated into any proffer statement.
5. Upon approval of an application, the master zoning plan shall determine the general layout of the development, the uses permitted in the land bays shown on the master zoning plan, and the general size and capacity of public improvements shown (but not their specific location, unless so proffered).

Sec. 58-4.14. - Format for the development analysis.

1. A development analysis shall be prepared by the applicant to describe and analyze the probable effects of the proposed development upon the Town, and the applicant's plans for preservation of the sensitive environmental features identified in the environmental constraints analysis. The matters the applicant shall be required to address in the development analysis shall be determined by the Town Planner, following a pre application conference pursuant section 58-4.9, based upon the size, intensity, scope and impacts of the proposed development.

2. The Town Planner shall require the development analysis to address the following as applicable:

(a) Land use proposal: The applicant shall submit a land use proposal which shall address, but not be limited to, the following:

- (1) Proposed mix of uses;
- (2) Methods of integrating and unifying architectural and site design within land bays;

(3) Proposed landscaping features:

(4) Proposed public amenities:

(5) Proposed recreational facilities and other common open space; and

(6) Relationships of proposed uses and site design within the district to the land use classifications of the Comprehensive Plan and existing zoning in areas adjacent to the proposed planned development.

(b) Historic sites and landmarks analysis: The applicant shall identify and address the potential effects on significant cultural resources (architectural, historical and archaeological), and cemeteries or grave sites, in accordance with the requirements of subsections 58.3.12.8 and 58.3.12.9 and state how these effects will be mitigated. The applicant may be requested to conduct more detailed studies in historically or archaeologically sensitive areas should review of the application demonstrate the probable existence of such areas, and the need for their evaluation and protection.

(c) Water and sanitary sewer: The applicant shall provide a plan to serve the proposed development adequately.

(d) General open space plan: The applicant shall prepare a general open space plan. The plan shall identify proposed tree save areas, conservation areas, and buffer areas between potentially incompatible uses and along the boundaries of the proposed planned development. The proposed method of buffering shall be clearly articulated and shown on the master zoning plan. The general boundaries of the proposed open space areas shall also be shown on the master zoning plan.

3. The Town Planner may require the development analysis to address any or all of the following:

(a) Transportation system analysis and plan: The applicant shall prepare a transportation study and plan, which shall include at a minimum the information required by subsections 58-4.10, and 58.3.12.4 of this Chapter.

(b) Development phasing plan: The applicant shall prepare a development phasing plan which identifies in what order and how proposed public utilities, public facilities and other improvements and amenities necessary to support the project will be constructed, dedicated or reserved.

(c) Architectural plan: The applicant shall submit an architectural plan that addresses building materials, building heights, site design amenities, parking, landscaping, etc. The plan shall also address any means by which the applicant will ensure that such architectural plan would continue to govern development through its completion.

(d) Special or unique landscape treatments: The applicant shall submit plans and/or elevations of entry features and streetscapes proposed within the development.

4. Additional conditions: The applicant shall also address other topics that may be deemed appropriate by the applicant or Town Planner. These may include but not be limited to proposals for affordable housing, pedestrian and bikeway systems, road improvements beyond those necessary to serve the project, park facilities and other improvements.

5. The development analysis shall be considered by the planning commission in its decision whether to recommend and the Haymarket Town Council whether to grant or deny an application for rezoning to a planned development district. To the extent that the master zoning plan makes specific reference to one or more features of the development analysis, such features shall be deemed incorporated into the master zoning plan unless

such reference clearly notes it is made only for illustrative purposes or exception to such incorporation is otherwise clearly and specifically taken.

Sec. 58-4.15. - Waiver/modification provisions for planned development districts.

As part of a planned development district application, except for allowable density, an applicant may request that a waiver of or modification to specific development standards of the subdivision ordinance, this chapter or the requirements of the Zoning Ordinance be granted.

1.An applicant shall provide written justification for all proposed waivers or modifications that demonstrates that the request is necessary due to the unique characteristics of the specific property or the activity proposed is based on previously submitted and approved submission documents, provided such waivers or modifications will not conflict with the fulfillment of the purpose of this section.

2.The applicant shall propose an alternative or modified approach to fulfill the intent of the standard being waived or modified.

3.All modifications or waivers must demonstrate that the alternative proposal fulfills or exceeds the intent and purpose of the regulation being modified or the Comprehensive Plan.

4.The Haymarket Town Council may approve or disapprove such a request as specifically identified in the Council's motion, in whole or in part.

5.The approval of any waiver or modification requests will be reflected in the approved rezoning.

6.The depiction of a modification or waiver upon plans required by this section shall not of itself authorize such waiver or modification.

Sec. 58-4.16. - Concurrent processing.

Subject to approval by the Town Planner or designee, site and subdivision plans may be concurrently processed with a rezoning application upon the request of the applicant if the applicant acknowledges in writing responsibility for costs related to site and subdivision plan submittal regardless of whether the rezoning application is approved or denied. Concurrent processing of site and subdivision plans shall be limited to rezoning applications for targeted industries, planned development districts, nonresidential uses and residential projects including a qualified affordable housing component, either or both of which shall be in accordance with the long range land use designation of the Comprehensive Plan, or as otherwise authorized by the Town Planner. Submission of the plans may occur after receipt of agency comments upon first review of the application.

Sec. 58-4.17. - Conditional zoning.

1.Any applicant for a zoning map amendment (rezoning) may, as a part of his application, proffer reasonable conditions concerning the use and development of his property, including also off-site improvements that may serve or benefit his property and the public welfare. Proffers shall be signed and acknowledged by the owner of the property or any agent authorized by a power of attorney meeting the requirements of subsection 58-3.7.1(c).

2.Every proffer statement shall state that the applicant proffers that use and development of the property shall be in strict accordance with the proffered conditions. Any revised proffer statements shall state that it supersedes any proffer statements previously submitted and shall either show the revisions by appropriate annotation on its face or by reference to a narrative description of changes submitted at the same time. In the event the applicant proffers to develop and use his property in accordance with the schematic land use plan, or other plans, proffers, elevations, demonstrative materials and written statements submitted as part of the

general development plan, the proffer statement shall so state and each copy of such materials shall so provide, in accordance with the provisions of the adopted proffer policy. In the event of an inconsistency between a specific written proffer and a depiction upon a proffered general development plan, the proffered text shall control.

3.The Haymarket Town Council, when acting on an application for a zoning map amendment, may adopt as a part of the zoning map the proffered conditions, in whole or in part, set forth by the applicant. Once adopted by the Haymarket Town Council, such proffered conditions shall be binding on the use and development of the property, and shall continue in full force and effect until a subsequent amendment changes the zoning on the property covered by such conditions; provided, however, that such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance and/or zoning map.

4.Proffered conditions adopted by the Haymarket Town Council shall be in addition to the regulations provided for the zoning district by the text of this chapter. Except as standards that are specifically permitted to be modified or waived by the Haymarket Town Council, as part of a rezoning or special use Permit approval, development shall conform to mandatory standards in effect at the time of final plan approval if such standards exceed proffered conditions accepted at the time of rezoning.

5.The zoning map, and other appropriate files maintained by the Zoning Administrator, shall reference the existence of adopted proffered conditions attached to various properties. Any site plan, subdivision plan, development plat or permit application thereafter submitted for development of property to which proffered conditions have attached shall conform with all such conditions, and shall not be approved by any Town official in the absence of such conformity. For the purpose of this section, conformity shall mean such conformity which leaves a reasonable margin of adjustment due to final engineering data, but conforms with the general nature and intent of the development, the specific uses, and the general layout depicted by the plans, profiles, elevations, and other demonstrative materials presented by the applicant.

6.Minor Modifications. In addition to those determinations the Zoning Administrator may make pursuant to 58-3.30, the Town Planner may make minor modifications as follows:

(a)At the request of an applicant, minor modifications of adopted proffers shall be approved by the Town Planner or designee without requiring a subsequent amendment to the zoning of the property or the adopted proffered conditions. The Town Planner shall only approve a minor modification when the modification meets the definition of conformity specified in Paragraph 5 of this section.

(b)Minor modifications shall not be approved when the modification would exceed minimum or maximum standards prescribed by this chapter. Subsequent minor modifications of adopted proffers which have already been modified shall be permitted in accordance with the provisions of this paragraph, provided that the cumulative degree of modification does not exceed minimum or maximum standards prescribed by this chapter.

(c)For the purpose of this section, minor modifications shall be determined to conform with the adopted proffers when the modification meets one or more of the following criteria:

(i)An increase in the maximum number of children approved for a child-care facility, so long as the approved number does not exceed (1) 5% of the maximum number of children listed in the adopted proffered conditions; or (2) additional children, whichever is greater. The approval of a minor modification shall not increase the maximum number of children permitted for a child-care facility beyond a maximum prescribed by the Code of Virginia or any other applicable law or regulation.

(ii)An increase in the permitted number of adults for an adult day-care facility, so long as the

approved number does not exceed (1) 5% of the maximum, number of adults listed in the adopted proffers; or (2) one additional adult, whichever is greater, and so long as the minimum off-street parking requirement can be attained.

(iii)An increase in the maximum number of students approved for a private school, so long as the approved number does not exceed 5% of the maximum number of students listed in the adopted proffered conditions.

(iv)A modification to the approved building materials, architectural style, or color of building design features, so long as the overall intent as depicted in the approved proffers is maintained.

(v)An increase in the permitted number of employees, so long as the approved number does not exceed (1) 5% of the maximum employees listed in the adopted proffered conditions; or (2) one additional employee, whichever is greater and so long as the minimum off-street parking requirement can be attained.

(vi)An increase in the number of rooms or units at an assisted living facility, so long as the approved increase does not exceed (1) 5% of the maximum number, listed in the adopted proffered conditions; or (2) additional rooms, whichever is greater.

(vii)Changes in a building's minimum floor area ratio (FAR) specified in an adopted proffered condition, so long as the building's gross floor area is increased or reduced by no more than 0.1 FAR and so long as the maximum gross floor area is not increased beyond the maximum gross floor area prescribed in the zoning district standards.

(viii)Changes in a building's minimum or maximum height specified in an adopted proffered condition, so long as the building's height is increased or reduced by no more than 10 feet and so long as the height is not increased beyond the maximum height prescribed in the zoning district standards.

(ix)Changes to a stormwater management facility as depicted on an approved master zoning plan or approved generalized development plan, so long as no additional land disturbance would be required beyond that shown in the plan's limits of clearing and grading to the satisfaction of the Public Works Director, or designee.

(x)Minor changes to the site layout or configuration, provided impacts to adjacent properties are mitigated.

Sec. 58-4.18. - Conditional zoning enforcement.

1.The Zoning Administrator shall be vested with all necessary authority on behalf of the Haymarket Town Council to enforce conditions that have attached to Special Use Permits, or to rezonings (zoning map amendments) which have been proffered by an applicant for rezoning and accepted by the Haymarket Town Council in accordance with the provisions of the chapter. The Zoning Administrator may, in exercise of his discretion, issue a violation notice and correction order that orders the remedy of any noncompliance with any such conditions, or bring legal action to ensure compliance including injunction, abatement or other appropriate action or proceeding including the institution of criminal process; or any combination of the above deemed necessary to obtain compliance.

2.As part of the bonding procedures established, the Zoning Administrator or other Town official designated by the Administrator may require with final plans of any owner a guarantee (bond, assurance, sanction) satisfactory to the Haymarket Town Council in an amount sufficient for and conditioned upon the construction of any physical improvements required by such conditions or a contract for the construction of such improvements and

the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced or released by the Town Planner upon the submission to the Administrator or his designee of satisfactory evidence that the construction of such improvements has been completed in whole or in part, as appropriate.

3.Failure to meet or comply with any such condition shall be sufficient cause to deny the approval of site plans, subdivision plans, or the issuance of building permits, occupancy permits or other permits or licenses, as may be appropriate. Upon receipt by any public official of appropriate written notice of failure to meet such conditions, signed by the Zoning Administrator, said public official shall not issue any approvals, permits or licenses to the alleged violator until such official has received written notification from the Zoning Administrator that the applicant for approvals, permits or licenses has remedied all noncompliance with the such conditions.

4.Any applicant for approvals, permits or licenses who is aggrieved by a decision of the Zoning Administrator pursuant to the provisions of this section may petition either the Haymarket Town Council or the Board of Zoning Appeals for a review thereof, by filing a written notice thereof with the Town Clerk and the Zoning Administrator within 30 days after notice of the decision has been received. Said 30-day period shall be deemed jurisdictional. Such notice shall set forth with reasonable specificity the basis for such appeal and shall include payment of such fee as may be set by the Haymarket Town Council. The Haymarket Town Council or the Board of Zoning Appeals shall act upon any appeal within 30 days unless there is no regular meeting scheduled, in which case the Haymarket Town Council or the Board of Zoning Appeals shall act at its next regular meeting. The decision of the Haymarket Town Council or the Board of Zoning Appeals on such appeal shall be final.

Sec. 58-3=4.19. - Review of text and map amendments.

Every proposed amendment to the text of this chapter or zoning map shall be reviewed as provided for in the following sections.

Sec. 58-3=4.20. - Review by the Town Planner; comment by reviewing agencies.

1.When an amendment to the text of this chapter has been proposed, and when an amendment to the zoning map has been initiated, the Town Planner shall cause the amendment to be expeditiously reviewed by such staff, departments, offices, agencies, or other personnel as he finds appropriate.

2.In the case of an application for a zoning map amendment, the review shall include an examination of the applicant's proffer statement, if any. The Town Planner, or his designee, may suggest revisions to the proffer statement in order to clarify the proffers volunteered by the applicant. In addition, before the application is scheduled for a public hearing before the planning commission, the Town Planner or his designee shall present to the applicant a summary of the findings of the review in order that the applicant may make modifications of his application should he desire to do so. No substantial change shall be made in any proffered condition after the public hearing commences before the Haymarket Town Council, unless it is readvertised in accordance with the provisions of this chapter.

3. Proposed amendments shall be considered with reasonable consideration for the:

(a)Existing use and character of the area;

(b)Suitability of the property for various uses;

(c)Trends of growth or change;

(d)Current and future requirements of the Town as to land for various purposes as determined by population and economic studies and other studies;

(e)Transportation requirements of the community and the Town's requirements for parks, playgrounds,

recreation areas, other public services, or the conservation of natural resources and preservation of floodplains; and

(f)Conservation of properties and their values and the encouragement of most appropriate use of land throughout the Town.

These considerations shall include but are not limited to comprehensive plans or their parts, capital improvement programs, relation of development to roads and construction programs, and the proximity of the development to utilities and public facilities.

4.Reviewing agencies shall evaluate the application. A written summary of their findings and recommendations shall be forwarded to the Town Planner in accordance with the schedule established for the application.

5.After the Town Planner shall have presented a summary of the review findings to the applicant, the application shall be referred to the planning commission for public hearing. The Town Planner shall not be required to refer such application immediately, but shall consider the applicant's preference, the planning commission's schedule, and the appropriate use of Town staff.

6.When referring an application to the planning commission, the Town Planner shall cause a report to be prepared for the commission's review, and such report shall include a recommendation on the application.

7.Amendments to the zoning map not initiated by an application of a property owner, and amendments to the text of this chapter, shall be referred to the planning commission in a timely fashion after a report, including recommendation, shall have been prepared by the Town Planner or his designee.

Sec. 58-4.21. - Consideration by the planning commission.

1.The planning commission shall hold at least one (but may hold more than one) public hearing on all text and map amendments. The commission may continue a public hearing until another date; or close a public hearing but continue consideration of the amendment until another date; or it may make its recommendation following the first public hearing. In addition, the commission may reopen a closed public hearing to receive additional public comment, provided notice of such a reopened hearing shall be given in accordance with the provisions of this chapter. At the first public hearing (and at subsequent hearings as is necessary) the Town Planner, or his designee, shall present to the commission the report and recommendation of the Planning Office.

2.The planning commission shall have 90 days from the date of the first public hearing to consider an amendment to the text, the zoning map, or both. Failure of the commission to make a recommendation within the 90-day time period shall be deemed a recommendation of approval. However, if at any time after the date of the first public hearing an applicant shall make a change in the application, the commission shall have 90 days from the date the change is presented to the Town Planner within which to consider and make a recommendation on the amendment.

3.An applicant for a zoning map amendment may request that consideration of (and the recommendation on) his application be deferred past the 90-day time period established in subsection 2. above. Such request shall be submitted in writing to the chairman of the planning commission and the Town Planner before the public hearing, or, if such a request is made at the public hearing, it shall be reduced to a written request within five days. Such request, and the commission's resolution of deferral, shall contain a date certain for holding or resuming the public hearing. The commission shall then have 90 days from the date to which the application was deferred to consider and make a recommendation on the application, and failure to do so within that time period shall be deemed a recommendation for approval.

4.In making its recommendation to the Haymarket Town Council, the commission may recommend approval or denial of an amendment, or any part thereof as the public necessity, convenience, general welfare or good

zoning practice may require. The commission may also recommend modifications to an amendment, including, in the case of a zoning map amendment, a different zoning classification than requested, provided that if the zoning classification recommended is a more intense, or higher, classification than that requested, at least one additional public hearing, with notice given in accordance with the provisions of this chapter, shall be held. The commission may also, in the case of a zoning map amendment, recommend reducing the area of the proposed amendment; or may recommend increasing the area of the proposed amendment provided at least one additional public hearing, with notice given in accordance with the provisions of this chapter, is held.

Sec. 58-3=4.22. - Consideration by the Haymarket Town Council.

1.Following the planning commission's recommendation on an amendment, the Haymarket Town Council shall hold at least one (but may hold more than one) public hearing on such amendment, with notice given in accordance with the provisions of this chapter. At such hearing(s) the Town Planner, or his designee, shall present to the Haymarket Town Council the report and recommendation of the planning commission and the Planning Office.

2.The Haymarket Town Council may continue a public hearing until another date; or close a public hearing but continue consideration of the amendment until another date; or it may take action following the first public hearing. The Haymarket Town Council shall have one year from the date a zoning map amendment is initiated to act on the amendment, unless the applicant requests or consents to action beyond such period. This time period shall not include any length of time an application for a zoning map amendment was deferred at the request of the applicant. In addition, whenever an applicant shall make a change in his application, the one-year time period shall run from the date the change is received by the Town Planner.

3.Once notice of a public hearing before the Haymarket Town Council on an amendment is given in accordance with the provisions of this chapter, the applicant may make a substantial change in his application only if the application is referred back to the planning commission for further consideration and recommendation. In such a case, the process described in section 32-700.42 of this chapter shall apply. The Haymarket Town Council shall determine whether a change is substantial.

4.In considering an amendment, the Haymarket Town Council may approve or deny the amendment, or any part thereof as the public necessity, convenience, general welfare or good zoning practice may require. In the case of an amendment to the zoning map, the Haymarket Town Council may approve an amendment to a lesser area than initiated, and may approve a less intense, or lower, zoning classification than initiated. If the Haymarket Town Council desires to consider a zoning map amendment for a greater area, or to a more intense, or higher, zoning classification than initiated, the amendment shall be referred back to the planning commission for further consideration and recommendation. In such a case, the process described in section 58-3.21 of this chapter shall apply.

Sec. 58-4.23. - Matters to be considered in reviewing amendments.

The planning commission, in considering its recommendation on an amendment, and the Haymarket Town Council, in considering what action to take on an amendment, shall review the amendment with consideration for the purposes and intent of this chapter. In addition, only those written and graphic materials that have been referenced in a proffer statement may be displayed at any public hearing before the planning commission or the Haymarket Town Council.

Sec. 58-4.24. - Interpretation by Zoning Administrator.

In determining whether site and subdivision plans submitted are in conformity with a zoning map amendment, the Zoning Administrator shall give weight to the following, in descending order of importance:

- 1.This chapter 58.

2. Any other applicable federal, state or local law, ordinance or regulation.
3. The applicant's proffer statement, if any.
4. The master zoning plan, if any.
5. The development analysis, if any.
6. The staff report prepared for consideration by the Haymarket Town Council at the time of rezoning.

Sec. 58-4.25. - Application for a Special Use Permit.

1. An application for a Special Use Permit may be made by a property owner, for his property, for any Special Use Permitted in the zoning district in which his property is located. A duly authorized agent for an owner may make application, provided a legally sufficient power of attorney, meeting the requirements of subsection 58-3.7.1(c) as approved by the Town Attorney's office, has been executed.

2. In addition to an application by a property owner, a Special Use Permit application may be initiated by resolution of the Haymarket Town Council, or by resolution of the planning commission.

3. An application for a Special Use Permit shall be made to the Planning Office and shall include the items listed in this section. Except for the filing fee, and unless otherwise determined at a pre application conference by the Town Planner or his designee, 8 collated sets of the following information shall be submitted:

(a) Those items listed by subsections **58-3.11.1, 58-3.11.2, 58-3.11.3 and 58-3.11.5 through 58-3.11.12.**

(b) A Special Use Permit plan. The elements required in the Special Use Permit plan shall be determined by the Town Planner or his designee following the pre application conference required by section Sec. 58-3.9 based upon the size, scale, complexity and impact of the proposed request. When required, each element of the Special Use Permit plan shall conform to the standards set forth hereafter unless specifically waived or modified by the Town Planner or his designee:

- (1) An environmental constraints analysis in accordance with section 58-3.12.6.
- (2) Phasing plan, if applicable.
- (3) Special signage proposals, if desired.
- (4) General site grading plan.

(c) Other information as desired by the applicant.

(d) Such additional information as may be reasonably required by the Town in order for the Planning Office, the planning commission, or the Haymarket Town Council to make a proper evaluation of the proposal, such as but not limited to:

- (1) Hours of operation.
- (2) Estimated number of patrons, clients, patients, pupils, etc.
- (3) Estimate the distribution of traffic by mode and time of day.

4. Except for the filing fee, the Town Planner may waive the submission requirements, or any

portion thereof, set forth in subsection 3. above, provided such information is not necessary for the proper review of the application.

5.The Town shall be under no obligation to accept an application for a Special Use Permit if it does not meet all of the requirements of section 32-700.50 of this chapter.

Sec. 58-4.26. - Review process for an application for a Special Use Permit.

An application for a Special Use Permit shall be reviewed in a manner similar to an application for a zoning map amendment, as set forth by sections 58-3.20, 58-3.21 and 58-3.22 of this chapter, provided, however, that the one year time limit in section 58-3.22 shall not apply.

Sec. 58-4.27. - Concurrent processing.

Site and subdivision plans can be concurrently processed with a Special Use Permit application consistent with the long range land use designation of the Comprehensive Plan upon the request of the applicant if the applicant acknowledges responsibility for costs related to site and subdivision plan submittal regardless of whether the Special Use Permit application is approved or denied. The submission of plans may not be accepted until the first round of comments have been received from Special Use Permit application review agencies.

Sec. 58-4.28. - Matters to be considered in reviewing an application for a Special Use Permit.

The planning commission, in considering its recommendation on an application for a Special Use Permit, and the Haymarket Town Council, in considering what action to take on an application for a Special Use Permit, shall review such an application with consideration for the following factors:

1.The nature of the proposed use, including factors such as traffic, noise, light, hours of operation, and number of employees involved.

2.The character of the existing area, including existing structures and structures under construction, existing public facilities and public facilities under construction, and private, commercial and/or service facilities available within the existing area.

3.The area's designation on the Town's Comprehensive Plan, and relevant text provisions of the plan.

4.The minimum off-street parking area required and the amount of space needed for the loading and unloading of trucks.

5.Whether the public health, safety and welfare will be preserved, and any reasonable conditions necessary for such preservation.

6.Any other factors relating to the purposes of zoning that the planning commission and/or Haymarket Town Council, in its legislative discretion, shall consider as relevant.

Sec. 58-4.28. - Conditions attached to the approval of a Special Use Permit.

1.In approving a Special Use Permit, the Haymarket Town Council may attach reasonable conditions, including an expiration date, to such approval with or without the applicant's consent. Once a Special Use Permit is approved with conditions attached, such conditions shall be considered as a part of the text of this chapter, and may be administered and enforced by the Zoning Administrator. A violation of an attached condition shall be

considered a violation of this chapter.

2.A condition attached to the approval of a Special Use Permit may only be modified by a subsequent application for a Special Use Permit or by the approval of a minor modification in accordance with Sec. Sec. 58-3.30.

Sec. 58-4.29. - Special Use Permit general provisions.

1.After approval of a Special Use Permit by the Haymarket Town Council, the applicant shall have one year to submit site or subdivision plans for the approved use and shall occupy the site and commence the use within five years of approval of the site plan, provided that the Haymarket Town Council may allow, at the time and as part of approval, a longer period. If the use has not begun as provided above, the Special Use Permit shall be void, and the use may not thereafter be begun except upon approval of another Special Use Permit.

2.After approval of a Special Use Permit by the Haymarket Town Council, the use approved may intensify and/or expand, provided that any conditions attached to the approval shall not be violated. If intensification and/or expansion will violate any attached conditions, the intensification and/or expansion may be reviewed and approved as a minor modification or minor deviation pursuant to Sec. 58-3.30. Intensifications and/or expansions which cannot be authorized as described herein and which are ineligible for review as a minor modification or minor deviation shall not be approved unless a subsequent Special Use Permit application is approved that reflects the intensification and/or expansion.

3.Except for family day-care permitted and not conditioned upon site plan approval, all uses permitted by a Special Use Permit shall require site plan approval in accordance with the provisions of this chapter.

4.If an approved special use ceases operation for a period of one year, for any reason, the Special Use Permit shall become void, and thereafter the use may only be conducted after another Special Use Permit has been approved.

5.A Special Use Permit shall be transferable with the land, provided that the use for which it was obtained does not change.

6.Unless otherwise provided in the permit, a Special Use Permit shall have an indeterminate duration provided that the use for which it was obtained is commenced as required in subsection 2. and continues without abandonment as provided in subsection 4. in accordance with its terms.

Sec. 58-4.30. - Special Use Permit deviation.

Minor deviations from an approved Special Use Permit plan are allowed without filing of a new Special Use Permit application provided all deviations are shown on a site or subdivision plan. The Zoning Administrator shall determine, prior to the approval of site or subdivision plans, that the deviation(s) do not substantially alter conditions of the approved Special Use Permit or the approved Special Use Permit master plan. If the Zoning Administrator can not authorize a minor deviation as described herein, the deviation may be reviewed and approved as a minor modification pursuant to Paragraph 1 below. Minor deviations which cannot be authorized as described herein and which are ineligible for review as a minor modification may only be modified by a subsequent application for a Special Use Permit.

1.Minor Modifications. In addition to those determinations the Zoning Administrator may make pursuant to 58-3.30, the Town Planner may make minor modifications as follows:

(a)At the request of an applicant, minor modifications of adopted Special Use Permit conditions shall be

approved by the Town Planner or designee without requiring a subsequent amendment to the Special Use Permit or the adopted conditions. Town Planner shall only approve a minor modification when the modification meets the definition of conformity specified in Paragraph 5 of Sec. 58-3.17.

(b)Minor modifications shall not be approved when the modification would exceed minimum or maximum standards prescribed by this chapter. Subsequent minor modifications of adopted Special Use Permit conditions which have already been modified shall be permitted in accordance with the provisions of this paragraph, provided that the cumulative degree of modification does not exceed minimum or maximum standards prescribed by this chapter.

(c)For the purpose of this section, minor modifications shall be determined to conform with the adopted Special Use Permit conditions when the modification meets one or more of the following criteria:

(i)An increase in the maximum number of children approved for a child-care facility, so long as the approved number does not exceed 5% of the maximum, or a minimum of one, whichever is greater, number of children listed in the adopted Special Use Permit conditions. The approval of a minor modification shall not increase the maximum number of children permitted for a child-care facility beyond a maximum prescribed by the Code of Virginia or any other applicable law or regulation.

(ii)An increase in the permitted number of adults for an adult day-care facility, so long as the approved number does not exceed (1) 5% of the maximum number of adults listed in the adopted Special Use Permit conditions; or (2), one additional adult, whichever is greater and so long as the minimum off-street parking requirement can be attained.

(iii)An increase in the maximum number of students approved for a private school, so long as the approved number does not exceed (1) 5% of the maximum number of adults listed in the adopted Special Use Permit conditions; or (2), one additional student, whichever is greater.

(iv)A modification to the approved building materials, architectural style, or color of building design features, so long as the overall intent as depicted in the approved Special Use Permit conditions shall be maintained.

(v)An increase in the permitted number of employees, so long as the approved number does not exceed (1) 5% of the maximum employees listed in the adopted Special Use Permit conditions; or (2) one additional employee, whichever is greater and so long as the minimum off-street parking requirement can be attained.

(vi)An increase in the number of rooms or units at an assisted living facility, so long as the approved increase does not exceed (1) 5% of the maximum number listed in the adopted Special Use Permit conditions; or (2) one additional room, whichever is greater.

(vii)Changes in a building's minimum floor area ratio (FAR) specified in an adopted Special Use Permit condition, so long as the building's gross floor area is increased or reduced by no more than 0.1 FAR and so long as the maximum gross floor area is not increased beyond the maximum gross floor area prescribed in the zoning district standards.

(viii)Changes in a building's minimum or maximum height specified in an adopted Special Use Permit condition, so long as the building's height is increased or reduced by no more than 10 feet and so long as the height is not increased beyond the maximum height prescribed in the zoning district standards.

(ix)Changes to a stormwater management facility as depicted on an approved Special Use Permit

plan, so long as no additional land disturbance would be required beyond that shown in the plan's limits of clearing and grading, to the satisfaction of the Public Works Director or designee.

(x)Minor changes to the site layout or configuration, provided impacts to adjacent properties are mitigated.

(d)Minor modifications to mobile and land-based telecommunications facilities shall be subject to the standards specified in Part 240.

Sec. 58-4.31. - Revocation of Special Use Permits.

1.The Haymarket Town Council may, by resolution, initiate a revocation of a Special Use Permit. When initiated, the revocation process shall be handled as would a new application for a Special Use Permit, following the procedures set forth in section 58-3.25 of this chapter.

2.After review by the Planning Office and consideration and recommendation by the planning commission, the Haymarket Town Council shall act on the proposal to revoke the Special Use Permit. Grounds for revocation shall include (but not be limited to) the following:

(a)A change in conditions affecting the public health, safety and welfare since adoption of the Special Use Permit; or

(b)Repeated violations of this chapter, including any conditions attached to the Special Use Permit, by the owner/operator of the use; or

(c)Fraudulent, false or misleading information supplied by the applicant (or his agent) for the Special Use Permit; or

(d)Improper public notice of the Special Use Permit public hearing(s) when the permit was considered by the planning commission or the Haymarket Town Council; or

(e)An error or mistake in fact that led to an arbitrary and unreasonable decision made by the Haymarket Town Council when approving the Special Use Permit.

Sec. 58-4.32. - Refiling following denial; withdrawal; deferral.

1.Upon denial of any application by a property owner for an amendment or Special Use Permit, no further application concerning any or all of the same property that is substantially the same as the application denied shall be made within one year from the date of such denial.

2.An application for an amendment or Special Use Permit may be withdrawn at any time; provided, that if the request for withdrawal is made after publication of the notice of any public hearing, no application for substantially the same amendment or Special Use Permit on all or any part of the same property may be filed within six months of the withdrawal date.

3.In no event shall there be any refund of fees in the case of withdrawal after publication of the notice of any public hearing.

4.Whenever consideration of an amendment or Special Use Permit is deferred after notice of any public hearing has been first published, the applicant shall bear the additional advertising costs.

Sec. 58-4.33. - Dismissal of applications.

If an applicant refuses or neglects to pursue his application for an amendment or a Special Use Permit, the Haymarket Town Council may by resolution declare the application dismissed. Notice of intent to dismiss an application shall be sent certified mail, return receipt requested, to the applicant at the address listed on his application at least 15 days prior to the date the Haymarket Town Council has scheduled action on the proposed dismissal. If an application is dismissed, no fees shall be refunded, and for an application for a map amendment no other application substantially the same as the one dismissed shall be filed within one year of the date of dismissal.

Sec. 58-4.34. - Appeals.

Every action contesting a decision of the Haymarket Town Council adopting or failing to adopt a proposed zoning ordinance or amendment thereto affecting the map or text of this chapter or granting or failing to grant a special exception shall be filed within 30 days of such decision with the Circuit Court having jurisdiction of the land affected by the decision.

ARTICLE V. – ENFORCEMENT

Commented [47]: Emily/Bob

Sec. 58-5.1 -Inspection Warrants

The zoning administrator or his agent may make an affidavit under oath before a magistrate or circuit court, and if such affidavit establishes probable cause that a zoning ordinance violation has occurred, request that the magistrate or court issue the zoning administrator or agent an inspection warrant to enter and inspect the subject dwelling. The zoning administrator or his agents shall make a reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant.

Sec. 58-5.2 – Notice of Zoning Violation

- (a) Upon becoming aware of any violation of the provisions of this chapter, the Administrator may issue written notice of such violation to the owner of the property, or the owner's agent, and to the person committing or permitting the violations, if different from the owner. Notice shall be mailed by registered or certified mail or hand delivered.
- (b) The notice of violation shall state the nature of the violation, date that it was observed, the remedy or remedies necessary to correct the violation and a reasonable time period for the correction of the violation.
- (c) Every written notice of violation of the Administrator shall include a statement informing the recipient that he or she may have a right to appeal the notice of zoning violation or written order within 30 days in accordance with this section. The decision shall be final and unappealable if not appealed within 30 days.
- (d) If the recipient chooses to appeal, an appeal fee shall be submitted as established by a Council adopted Fee Schedule.
- (e) Appeals shall be heard by the Board of Zoning Appeals in accordance with the procedures set forth in Article VI of this chapter.

Sec. 58-5.3 - Penalties for violation of chapter.

- (a) Upon becoming aware of any violation of the provisions of this chapter, the Administrator may proceed to issue a civil summons consistent with Code of Virginia, § 15.2-2209.
- (b) Any person violating this chapter shall be guilty of a misdemeanor punishable as provided by state code.
- (c) The violation may be prosecuted as a criminal misdemeanor.
- (d) If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or

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remedy the violation in compliance with this chapter, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate offense punishable by an additional civil fine and any other penalties as ordered by the court.

- (e) The description of any lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring a lot shall not exempt the transaction from any penalties for violation of the subdivision ordinance, or from the remedies provided in this chapter.

State Law reference— Penalties for violation of zoning ordinance, Code of Virginia, § 15.2-2286(A)(5).

ARTICLE VI. - PROVISIONS FOR APPEAL^[9]

Footnotes:

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State Law reference— Boards of zoning appeals, Code of Virginia, § 15.2-2308 et seq. Sec. 58-5.1 - Board of zoning appeals generally.

(a) A board of zoning appeals (BZA) consisting of five members shall be appointed by the circuit court of the county.

Sec. 58-6.1 - Rules and regulations of board of zoning appeals.

- (a) The board of zoning appeals shall adopt such rules and regulations as it may be considered necessary.
- (b) All meetings of the board shall be open to the public unless a closed session consistent with the Virginia FOIA laws is properly convened and certified.
- (c) The Administrator shall maintain all records of the BZA.

Sec. 58-6.2 - Appeal procedure.

- (a) Appeals shall be conducted in a manner consistent with the Code of Virginia.
- (b) Appeals requiring an advertised public hearing shall be accompanied by a fee as set by the Town Council, payable to the Treasurer of the Town.

ARTICLE VII. MINIMUM OFF-STREET PARKING AND LOADING

Sec. 58-7.1 - Minimum off-street parking and loading.

- (a) *Minimum standards.* At the time of erection of any main building, or at the time any main building or its accessory uses is enlarged or the use changed, all provisions of article XIII shall be met along with minimum required off-street parking and loading space with adequate provision for entrance and exit of motor vehicles, in accordance with the following table.
- (b) Parking space as required in this section shall be on the same lot with the main building; except that in the case of buildings other than dwellings, spaces may be located as far away as 750 feet. Every parcel of land used as a public parking area and motor vehicle ways shall be surfaced with all weather surfaces, excluding gravel surfaces. It shall have appropriate guards where needed as determined by the administrator. Any lights used to illuminate such parking areas shall be so arranged as to reflect the light away from adjoining premises in a residential district.

Table of Parking Requirements

Abbreviations:

- GFA means gross square feet of floor area, as defined
- NFA means net square feet of floor area, as defined. For the purposes of these parking standards, Net Floor Area (NFA) is equivalent to 75% of the Gross Floor Area
- SF means square feet
- DU (d.u.) means dwelling unit
- BR means bedroom

Note: 'employee' always refers to the number of employees on the largest shift

Note: Code of Virginia, § 15.2-2291 requires that **group homes** be regulated like single family homes

Residential		
<i>Uses</i>	<i>Minimum Parking</i>	<i>Minimum Loading</i>
Single family detached dwelling	2 per dwelling unit, exclusive of garage	-
Single family attached and two family (townhouse and duplex)	2.25 per d.u. Inclusive of minimum of .25 for visitor parking which must be distinct from d.u.)	-
Apartments on second floor of structures designed for commercial use	1.5 per d.u. (spaces must be assigned to each dwelling)	-
Assisted living facility	1 per 4 d.u. plus 1 per employee	-
Active adult/ age restricted	1.5 per d.u.	-
Accessory apartment (as defined)	1 per d.u.	-
Group Home	See standard for the residential unit type	-

~~such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance. This section is subject to Code of Virginia, § 15.2-2303.4.~~

~~Sec. 58-4.11—Zoning of boundary-adjusted area.~~

~~Any area incorporated into the Town after the effective date of the zoning ordinance, shall be automatically classified as an R-1 district until a zoning plan for such an area has been adopted by the Council. The Planning Commission shall prepare and present a zoning plan of the new area within six months to the Council.~~

Sec. 58-4.1. - Statement of purpose and intent.

The Council finds that a portion of the police power of the Commonwealth has been delegated to each Town, to be exercised reasonably in determining the manner of its development. The state legislature has left much discretion to the Town in making such determinations, relying on the local governing body's knowledge of local conditions and the needs of its individual communities. Public necessity, health, safety, convenience, general welfare, and good zoning practice provide guiding factors for the Council in its quest to exercise its legislative mandate in formulating a reasonable policy of Town planning for the general good and welfare.

Sec. 58-4.2. - Amendments generally.

The intent of this section is to provide (pursuant to §§ 15.2-2296—15.2-2303 of the Code of Virginia), a more flexible and adaptable zoning method to cope with situations found in zones whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned.

Changes in the zoning restrictions applicable to any parcel of land in the Town of Haymarket may be effected in accordance with the provisions of this chapter through approval by the Haymarket Town Council in any of the following ways:

- 1.Zoning text amendments; or
- 2.Zoning map amendment (rezoning), including modification of proffers; or
- 3.Special Use Permit approval.

Sec. 58-4.3. - Conflict of interest.

When a zoning application is filed by a property owner, such petition shall be sworn to under oath before a notary public, stating whether any member of the Haymarket Town Council or the Planning Commission has an interest in such property, whether individually, by ownership of stock in a corporation owning such land or by partnership, or whether a member of the immediate household of any member has such interest. For the purpose of this section, own or have any interest in shall mean being a holder of ten percent or more of the outstanding shares of stock in or serving as a director or officer of any corporation owning such land, directly or indirectly, by members of his immediate household.

Sec. 58-4.4. - Notice requirements for map amendments and Special Use Permits.

Prior to a public hearing on a map amendment, public facility determination, or Special Use Permit before the Planning Commission or Haymarket Town Council, notice as required by this section shall be given. The Planning Commission shall not recommend nor the Haymarket Town Council approve any amendment or Special Use Permit until such notice is given. Notice of amendments or Special Use Permits need not be

advertised in full, but may be advertised by reference, provided that the place where copies of such amendments or Special Use Permits may be viewed shall be included in the notice. In the case of a proposed amendment to the zoning map, such public notice shall state the general usage and density range of such proposed amendment and the general usage and density range of the applicable part of the Comprehensive Plan.

1. Notice of a zoning map amendment or Special Use Permit shall be published once a week for two successive weeks (with not less than six days elapsing between the first and second publication) in a newspaper having general circulation in the Town. Notice for both the planning commission and Board of County Supervisors may be published concurrently. Notice shall specify the time and place of the public hearing, which shall be held not less than five days nor more than 21 days after the second advertisement shall have appeared.

2. When a proposed map amendment involves a change in the zoning map classification of 25 or fewer parcels of land, written notice shall be sent by first class mail by the Town Planner, or his designee, to the owner, agent, or occupant of each parcel within 500 feet in all directions of the property to be rezoned, as well as to the owner, agent, or occupant of the property to be rezoned in the case of a rezoning initiated by the Haymarket Town Council. If any portion of a planned development district is within 500 feet of the property to be rezoned, then notice shall be given to the homeowner association within the planned development district that has members owning property located within 2,000 feet of the property to be rezoned. Notice shall be sent at least five days before the public hearing to the last known address as shown on the current real estate tax assessment books or current real estate tax assessment records, and the person sending such notice shall make an affidavit, and file it with the papers in the case, that such notice was mailed. Written notice for Special Use Permits shall be sent by first class mail by the Town Planner or his designee for such permit to the owner, agent or occupant of each property, in all directions, within 500 feet of the site of the proposed special use, as well as to the owner, agent, or occupant of the property that is the subject of the Special Use Permit in the case of a Special Use Permit initiated by the Haymarket Town Council. Such notice shall be in a form approved by the Town Planner, and shall be mailed at least five days before the date of the public hearing to the last known address as shown on the current real estate tax assessment books. If the hearing is continued, notice shall be re-mailed. The applicant shall make an affidavit that such notice was mailed in accordance with these provisions, and shall file the affidavit with the Town Planner at least five days before the date of the public hearing.

3. When a proposed map amendment involves a change in the zoning map classification of more than 25 parcels of land, written notice shall be sent by first class mail by the Town Planner, or his designee, to the owner, owners or their agents of each parcel of land involved. Notice shall be sent at least five days before the public hearing, one notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that the Town Planner, or his designee, shall make affidavit that such mailings have been made, and shall file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequent adopted amendment or ordinance because of the inadvertent failure by the Town Planner, or his designee, to give written notice to the owner, owners or their agents of any parcel involved.

4. Notice of a map amendment or Special Use Permit shall be given by the posting of at least one sign on the property involved at least 15 days prior to the date of the public hearing. Additional signs shall be required for properties with more than one road frontage, or properties with more than 200 feet of frontage along one road. Such signs shall be supplied by the Town Planner, and shall be posted by the applicant, who shall make an affidavit that posting in accordance with these provisions was done, and shall file such affidavit with the Planning Director within three days after posting of the property. Such signs shall be posted between three and six feet in height in the following manner:

(a) All signs shall be posted so as to assure the greatest public visibility practical. Signs shall be posted adjacent to the street right-of-way abutting the site, no more than ten feet from the edge of said right-of-way. If more than

one street abuts the site, at least one sign shall be posted along each abutting street. If no street abuts the site, at least one sign shall be posted along the closest public street, with a note added to locate the property in direction and distance from the sign. If more than one sign is posted along the same road frontage, such signs shall be posted at least 200 feet apart.

(b)The applicant shall be responsible for maintaining the signs in good condition until the public hearing, and shall replace damaged or removed signs as soon as practical. It shall be a violation of this chapter to damage or remove a public notice sign erected under these provisions, and each sign shall carry a warning to this effect.

(c)All signs shall be removed by the applicant within ten days of the final action of the planning commission and/or Haymarket Town Council.

5.In the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessee's association, respectively, in lieu of each owner.

6.A party's actual notice of, or active participation in, the proceedings for which written notice is required, shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.

7.When (i) a Comprehensive Plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public use airport, then written notice shall be given consistent with Code of Virginia, § 15.2-2204(D).

8.When a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice shall be given consistent with Code of Virginia, § 15.2-2204(B).

9.When a proposed amendment to the zoning ordinance or application for public facility determination or Special Use Permit includes a proposal to exceed the maximum height permitted within the subject zoning district, written notice as required in Subsections (2) and (3) above shall be provided to the owner, agent, or occupant of each parcel within 1,320 feet in all directions of the land involved.

Sec. 58-4.5. - Notice of zoning text amendments.

1.Prior to a public hearing on a zoning text amendment before the planning commission or Board of County Supervisors, notice as required by this section shall be given. The planning commission shall not recommend nor the Board of County Supervisors approve any zoning text amendment until such notice is given. Notice of such amendment need not be advertised in full, but may be advertised by reference, provided that the place where copies of such amendments may be viewed shall be included in the notice.

2.When a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of more than 25 parcels of land, then, in addition to the advertising requirements of section Sec. 58-3.4.1, written notice shall be given by the Planning Director, or his designee, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Code of Virginia, §§ 15.2-2240 et seq., where such lots are less than 11,500 square feet. Nothing in this subsection shall be construed as to invalidate any subsequent adopted amendment or ordinance because of the inadvertent failure by the Planning Director, or his designee, to give written notice to the owner, owners or their agents of any parcel involved.

Sec. 58-4.6. - Zoning text amendments.

1. Whenever the public necessity, convenience, general welfare or good zoning practice require, amendments to the text of this chapter may be proposed by resolution of Haymarket Town Council, or by resolution of the planning commission stating the public purposes therefore.

2. Amendments may be proposed using either specific language, or as a narrative, descriptive request.

3. When proposed, amendments shall be reviewed, considered and acted upon as set forth in sections 58-3.19 et seq., of this chapter.

4. Zoning text amendments that decrease the allowed dwelling unit density of more than 25 parcels of land shall give written notice of such amendments per section 58-3.5.

Sec. 58-4.7. - Zoning map amendments (rezoning).

1. Amendments to the zoning map, including amendments to any conditions previously proffered by an applicant and accepted by the Haymarket Town Council, may be initiated as follows:

(a) By resolution of the Haymarket Town Council; or

(b) By resolution of the planning commission; or

(c) By application of the property owner for his property. An agent for a property owner, or a contract purchaser (with the owner's written consent), may make an application on the owner's behalf, provided a legally sufficient power of attorney, as approved by the Town Attorney's office, has been executed by the owner. Such power of attorney shall provide that the Town may rely upon signature of the agent as constituting that of the owner for all purposes of this chapter unless the owner shall serve notice of revocation by registered or certified mail, upon the Town Planner. The signatures to such power of attorney or notice of revocation shall be attested. Such an application shall be deemed to have initiated a zoning map amendment only when made in proper and complete form, as set forth by this part, as applicable. In order for proffered conditions to be considered part of an application, they shall be prepared in accordance with the requirements of section 58-3.17.

2. When initiated, amendments to the zoning map shall be reviewed, considered and acted upon as set forth in sections 58-3.19, et seq. of this chapter. The Town shall be under no obligation to consider a property owner's application for a zoning map amendment that does not meet the standards set forth in sections 58-3.11 et seq. of this chapter.

3. An amendment to any planned district or proffered condition shall be considered as an amendment to the zoning map

Sec. 58-4.8. - Applications for modification or waiver of requirements.

For those minimum development standards specifically permitted by any provision of this chapter or other Town ordinance that may be waived or modified by Special Use Permit or proffer approved by the Haymarket Town Council, an application for such waiver or modification shall be made in accordance with the provisions of this Part 3 and may constitute the whole of or a part of such application.

Sec. 58-4.9. - Preapplication conference.

1.A preapplication conference may be requested by any person planning to seek a zoning map change or Special Use Permit pursuant to the provisions of this chapter.

2.The purpose of a pre application conference shall be for a property owner to outline for planning staff a proposed development of his property and to seek a determination from the Town Planner as to the submission requirements applicable to the application in accordance with the provisions of sections ~~32-700.21 through 32-700.25~~.

3.At or following the pre application conference, the Town Planner or his designee shall notify the applicant detailing the submission requirements that must be satisfied in order for the application to be deemed complete.

Sec. 58-4.10. - Zoning map amendments initiated by planning commission or Town Council.

1.Amendments to the zoning map initiated by resolution of the planning commission or Haymarket Town Council shall be prepared by the Town Planner in accordance with the requirements of this section.

2.An application for rezoning on resolution of the planning commission or Haymarket Town Council shall be deemed complete when it contains the following:

- (a)Copy of resolution initiating consideration of the zoning map change;
- (b)Description of land subject to the application;
- (c)Map depicting land subject to the application;
- (d)Existing and proposed zoning classifications of land subject to the application;
- (e)Existing zoning classification of all property within 200 feet of the parcel boundaries of the land subject to the application;
- (f)The names and addresses of all parcels subject to the application; and
- (g)The names and addresses of parcels for notice of public hearing as required by section 58-3.4.

Sec. 58-4.11. - Landowner initiated rezonings; mandatory submission requirements.

An application by an individual property owner shall be made to the Town Planner and shall include the items listed in this section. Except for the filing fee, and unless otherwise determined at a pre application conference, 6 collated sets of the following information, shall be submitted:

1.A fully completed application form (which shall be supplied by the Town Planner) signed by the property owner (or duly authorized agent). The application form shall include the name and current mailing address of the applicant and all record owners of the property with a ten percent or greater interest, the zoning classification sought, and any other information as may be reasonably required by the Town Planner on the application.

2.The latest deed for the property and an accurate plat of the property of a scale of one inch equals 100 feet or less prepared by a certified land surveyor, which shall show:

- (a)Bearings and distances of a scale of one inch represents 100 feet or less for all property lines and

existing and proposed zoning district lines;

(b)Area of land proposed for consideration, in square feet or acres;

(c)Scale and north point;

(d)Names of boundary roads or streets and widths of existing rights-of-way;

(e)Each area of requested map amendment outlined in red.

3.A written boundary description of the land which is the subject of the application, which must conform to the plat information.

4.A general development plan, as set forth by section 58-4.12.

5.The names and mailing addresses, as listed in the current real estate tax assessment books or current real estate tax assessment records, of all property owners, in all directions, within 500 feet of the perimeter of the property to be rezoned. Even if less than the entire record parcel is to be rezoned, then the names and addresses of all property owners within 500 feet of the parcel boundaries shall be provided. When a proposed rezoning includes a proposal to exceed the maximum height permitted within the subject zoning district, the names and mailing addresses required herein shall be provided for all property owners within 1,320 feet in all directions of the land involved.

6.Additional information as required by sections 58-4.12. through 58-4.15.

7.A filing fee, in the amount established by the Haymarket Town Council pursuant to resolution.

8.An inventory of the historical records research completed including the maps and documents available for prehistoric and historic resources. The sources consulted for determining that the site has or does not have special significance shall be referenced, and shall include, but not be limited to the following:

- Town of Haymarket Comprehensive Plan, Cultural Resources Element.
- The Virginia Department of Historic Resources; Archaeological and Architectural Site Survey Files.
- The Prince William County Cemetery Inventory.

9.A phase I cultural resources survey, performed in accordance with the guidelines of the Virginia Department of Historic Resources, with the scope of work approved by the Town, for property that is on the Town Register of Historic Sites as shown in the Comprehensive Plan, and for property within highly sensitive areas for cultural resources on the high sensitivity areas and Town Registered Historic Sites Map of the Comprehensive Plan, or as indicated as having a medium to high potential on the application's cultural resources assessment and records check.

10.Traffic impact analysis.

11.A narrative description analyzing the consistency of the application responding to the intent, goals, policies and action strategies for each element of the Comprehensive Plan.

12.If proposed, provisions for affordable housing units for any development on which a residential component is to be constructed.

Sec. 58-4.12. - General development plan (GDP).

The elements required in the general development plan shall be determined by the Town Planner or his designee following the pre application conference required by section 58-3.9 based upon the size, scale, complexity and impact of the proposed rezoning. When required, each element of the general development plan shall conform to the standards set forth hereafter unless specifically waived or modified by the Town Planner or his designee:

1.A general development plan meeting the requirements of this section shall be submitted as part of an application for a zoning map amendment requested by a landowner.

2.The general development plan shall be a written, graphic, and/or visual statement of the uses intended for the subject property, justification for the proposed zoning map amendment, and other information necessary for an orderly and expeditious review of the application. All data and other information shall be submitted in writing or by use of demonstrative materials.

3.All statements, plans, profiles, elevations and other demonstrative materials comprising the general development plan shall become part of the record of the hearing on the application for an amendment. Any model must be accompanied by eight-by-ten-inch clear photographs showing a top view, an isometric view and each side view of the model.

4.All written statements and all plans, profiles, elevations and other illustrative or demonstrative materials shall be presented on a sheet or sheets having a size of no larger than 24 by 36 inches. If prepared on more than one sheet, match lines shall clearly indicate where the several sheets join. All sheets shall be folded to a size not greater than nine by 12 inches.

5.Topography shall be shown by contour lines. The contour interval shall not be more than five feet. The contours shall be shaded in a graphic technique showing slope conditions of 15 to 25 percent and another distinguishing graphic technique showing greater than 25 percent slope.

6.An environmental constraints analysis showing slopes shaded as required by subsection 5 above and a proposed limits of disturbance line. The analysis shall include a written description and generalized mapping of natural site conditions, with an emphasis on those significant environmental features that could be affected by the proposed development and those that will be retained upon completion of the project. The analysis shall also describe avoidance efforts and/or mitigation techniques to minimize the environmental impacts of the proposal. The mapped information shall show the following:

(a)Approximate delineation of all wetland areas and Chesapeake Bay Resource Protection Areas;

(b)Areas of 15 percent slope and greater;

(c)Impervious and proposed pervious surfaces;

(d)Areas that will remain in a natural or undisturbed state upon completion of a project (including woodland conservation areas);

(e)Potential habitat for or actual occurrence of, endangered or threatened plant and animal species and species of special concern;

(f)One hundred-year floodplain boundary, as approved by the Federal Emergency Management Agency and/or the County;

(g)Areas of highly erodible, highly permeable, and marine clay soils; and

(h)Vegetative cover types.

7.A schematic land use plan, at a scale of one inch equals 100 feet or less shall be provided showing the proposed traffic circulation plan including major streets, connection to existing public roads and major pedestrian, or bike paths; all proposed major open space areas; the approximate location of all proposed community and public facilities and the proposed plan for all major sanitary sewers, water systems and storm water management and drainage improvements and the location of all buildings and other structures. The plan shall describe with specificity the means of transportation access to and from the property, and adjacent properties if appropriate, and shall include an estimate, prepared by an appropriate expert, of the traffic that will be generated by the property and its use if rezoned.

8.A written statement setting forth the following shall also be included:

(a)All use(s) proposed for the property, including a detailed description of the operation(s) and any special processes, conditions, hazards, safety concerns or impacts on public facilities or the public health, safety and welfare associated with the proposal.

(b)Those general areas that have historic or scenic assets, or natural features deserving of protection and preservation, shall be indicated along with a statement of how protection and maintenance of same will be accomplished. Existing cemeteries shall be identified and the measures to protect them or relocate them in accordance with state law shall be addressed.

(c)The method by which adjacent and neighboring properties shall be protected from the adverse effects of the proposed development, including vehicular access plans, proposed measures and types of landscaping and buffering, and peripheral setback and yard requirements.

(d)The maximum height of all proposed structures in the development.

(e)The maximum number of dwelling units proposed, maximum lot coverage, and/or maximum floor area ratio (F.A.R.) as appropriate.

(f)The special amenities to be provided within the development, including a statement of commitment to landscaping with indigenous, drought tolerant species listed in the Zoning Ordinance.

(g)All off-site improvements that are proposed, such as roads, water, and sewer and drainage facilities.

(h)The proposed development phasing plan and its relationship to the applicant's provision of supportive utilities, facilities, roads and other services, including the projected wastewater flows for each phase.

(i)Any proposed signs that will not meet the standards of sections 58-15.1 et seq. of this chapter when signage proposed for the project is specified in a proffer statement.

(j)Additional information as desired by the applicant.

(k)Any modifications or waivers proposed pursuant to section 58-4.8.

Sec. 58-4.13. - Requirements for a master zoning plan.

1.The master zoning plan (MZP) shall be prepared using a convenient scale so that the entire parcel can be shown on a single sheet of paper no larger than 30 inches by 42 inches. The Town Planner may approve submission of plans on more than one sheet so long as one sheet depicting the entire project is submitted.

2. Any provision of any matter submitted with the master zoning plan that is to be considered for illustrative purposes, and is not intended to comprise part of the master zoning plan shall be clearly labeled as such.

3. The elements required to be addressed in the master zoning plan shall be determined, by the Town Planner, in accordance with the provisions below, following the pre application conference in accordance with section Sec. 58-3.9, based upon the size, intensity, scope and impacts of the proposed development.

4. The master zoning plan shall include the following:

(a) Information required for general development plans as described in section 58-3.12; and

(b) The location of property lines, watercourses or lakes, known cemeteries, wooded areas, existing roads, entrances, subdivisions and major landmarks, which are within the property, and within 500 feet of the property.

(c) The general boundaries of each proposed section, land use, density, or intensity, principal street systems, recreation areas or public use areas to be located within the project.

(d) Proposed general land use areas shall be designated by land bays. The general sizes of land bays proposed for consideration shall be determined by the Town Planner as part of the pre application conference required by section 58-3.9. Designation of uses within each land bay shall be consistent with the Comprehensive Plan land use designation, in accordance with the provisions of this Chapter. Minimum and maximum development densities for residential uses or floor area ratios for nonresidential uses shall be established for each land bay and tabulated in accordance with the requirements of subsection (e) below.

(e) A table which shows, for each land bay designated in accordance with subsection (d) above, range of the uses, number of dwelling units for residential areas or square feet of floor space for commercial, office or industrial areas and their respective acreage, which are proposed for the site.

(f) Those specific features in response to the impacts identified in an environmental constraints analysis, pursuant to section 58-3.12.6, that the developer proposes to enhance the effects of the development through the provision of undisturbed open space. These features may be shown on one or more sheets, or submitted in narrative form, or both, provided they are clearly labeled as part of the master zoning plan or incorporated into any proffer statement.

5. Upon approval of an application, the master zoning plan shall determine the general layout of the development, the uses permitted in the land bays shown on the master zoning plan, and the general size and capacity of public improvements shown (but not their specific location, unless so proffered).

Sec. 58-4.14. - Format for the development analysis.

1. A development analysis shall be prepared by the applicant to describe and analyze the probable effects of the proposed development upon the Town, and the applicant's plans for preservation of the sensitive environmental features identified in the environmental constraints analysis. The matters the applicant shall be required to address in the development analysis shall be determined by the Town Planner, following a pre application conference pursuant section 58-4.9, based upon the size, intensity, scope and impacts of the proposed development.

2. The Town Planner shall require the development analysis to address the following as applicable:

(a) Land use proposal: The applicant shall submit a land use proposal which shall address, but not be limited to, the following:

(1) Proposed mix of uses;

(2) Methods of integrating and unifying architectural and site design within land bays;

(3) Proposed landscaping features;

(4) Proposed public amenities;

(5) Proposed recreational facilities and other common open space; and

(6) Relationships of proposed uses and site design within the district to the land use classifications of the Comprehensive Plan and existing zoning in areas adjacent to the proposed planned development.

(b) Historic sites and landmarks analysis: The applicant shall identify and address the potential effects on significant cultural resources (architectural, historical and archaeological), and cemeteries or grave sites, in accordance with the requirements of subsections 58.3.12.8 and 58.3.12.9 and state how these effects will be mitigated. The applicant may be requested to conduct more detailed studies in historically or archaeologically sensitive areas should review of the application demonstrate the probable existence of such areas, and the need for their evaluation and protection.

(c) Water and sanitary sewer: The applicant shall provide a plan to serve the proposed development adequately.

(d) General open space plan: The applicant shall prepare a general open space plan. The plan shall identify proposed tree save areas, conservation areas, and buffer areas between potentially incompatible uses and along the boundaries of the proposed planned development. The proposed method of buffering shall be clearly articulated and shown on the master zoning plan. The general boundaries of the proposed open space areas shall also be shown on the master zoning plan.

3. The Town Planner may require the development analysis to address any or all of the following:

(a) Transportation system analysis and plan: The applicant shall prepare a transportation study and plan, which shall include at a minimum the information required by subsections 58-4.10, and 58.3.12.4 of this Chapter.

(b) Development phasing plan: The applicant shall prepare a development phasing plan which identifies in what order and how proposed public utilities, public facilities and other improvements and amenities necessary to support the project will be constructed, dedicated or reserved.

(c) Architectural plan: The applicant shall submit an architectural plan that addresses building materials, building heights, site design amenities, parking, landscaping, etc. The plan shall also address any means by which the applicant will ensure that such architectural plan would continue to govern development through its completion.

(d) Special or unique landscape treatments: The applicant shall submit plans and/or elevations of entry features and streetscapes proposed within the development.

4. Additional conditions: The applicant shall also address other topics that may be deemed appropriate by the applicant or Town Planner. These may include but not be limited to proposals for affordable housing, pedestrian

and bikeway systems, road improvements beyond those necessary to serve the project, park facilities and other improvements.

5.The development analysis shall be considered by the planning commission in its decision whether to recommend and the Haymarket Town Council whether to grant or deny an application for rezoning to a planned development district. To the extent that the master zoning plan makes specific reference to one or more features of the development analysis, such features shall be deemed incorporated into the master zoning plan unless such reference clearly notes it is made only for illustrative purposes or exception to such incorporation is otherwise clearly and specifically taken.

Sec. 58-4.15. - Waiver/modification provisions for planned development districts.

As part of a planned development district application, except for allowable density, an applicant may request that a waiver of or modification to specific development standards of the subdivision ordinance, this chapter or the requirements of the Zoning Ordinance be granted.

1.An applicant shall provide written justification for all proposed waivers or modifications that demonstrates that the request is necessary due to the unique characteristics of the specific property or the activity proposed is based on previously submitted and approved submission documents, provided such waivers or modifications will not conflict with the fulfillment of the purpose of this section.

2.The applicant shall propose an alternative or modified approach to fulfill the intent of the standard being waived or modified.

3.All modifications or waivers must demonstrate that the alternative proposal fulfills or exceeds the intent and purpose of the regulation being modified or the Comprehensive Plan.

4.The Haymarket Town Council may approve or disapprove such a request as specifically identified in the Council's motion, in whole or in part.

5.The approval of any waiver or modification requests will be reflected in the approved rezoning.

6.The depiction of a modification or waiver upon plans required by this section shall not of itself authorize such waiver or modification.

Sec. 58-4.16. - Concurrent processing.

Subject to approval by the Town Planner or designee, site and subdivision plans may be concurrently processed with a rezoning application upon the request of the applicant if the applicant acknowledges in writing responsibility for costs related to site and subdivision plan submittal regardless of whether the rezoning application is approved or denied. Concurrent processing of site and subdivision plans shall be limited to rezoning applications for targeted industries, planned development districts, nonresidential uses and residential projects including a qualified affordable housing component, either or both of which shall be in accordance with the long range land use designation of the Comprehensive Plan, or as otherwise authorized by the Town Planner. Submission of the plans may occur after receipt of agency comments upon first review of the application.

Sec. 58-4.17. - Conditional zoning.

1.Any applicant for a zoning map amendment (rezoning) may, as a part of his application, proffer reasonable conditions concerning the use and development of his property, including also off-site improvements that may serve or benefit his property and the public welfare. Proffers shall be signed and acknowledged by the owner of the property or any agent authorized by a power of attorney meeting the requirements of subsection 58-3.7.1(c).

2. Every proffer statement shall state that the applicant proffers that use and development of the property shall be in strict accordance with the proffered conditions. Any revised proffer statements shall state that it supersedes any proffer statements previously submitted and shall either show the revisions by appropriate annotation on its face or by reference to a narrative description of changes submitted at the same time. In the event the applicant proffers to develop and use his property in accordance with the schematic land use plan, or other plans, proffers, elevations, demonstrative materials and written statements submitted as part of the general development plan, the proffer statement shall so state and each copy of such materials shall so provide, in accordance with the provisions of the adopted proffer policy. In the event of an inconsistency between a specific written proffer and a depiction upon a proffered general development plan, the proffered text shall control.

3. The Haymarket Town Council, when acting on an application for a zoning map amendment, may adopt as a part of the zoning map the proffered conditions, in whole or in part, set forth by the applicant. Once adopted by the Haymarket Town Council, such proffered conditions shall be binding on the use and development of the property, and shall continue in full force and effect until a subsequent amendment changes the zoning on the property covered by such conditions; provided, however, that such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance and/or zoning map.

4. Proffered conditions adopted by the Haymarket Town Council shall be in addition to the regulations provided for the zoning district by the text of this chapter. Except as standards that are specifically permitted to be modified or waived by the Haymarket Town Council, as part of a rezoning or special use Permit approval, development shall conform to mandatory standards in effect at the time of final plan approval if such standards exceed proffered conditions accepted at the time of rezoning.

5. The zoning map, and other appropriate files maintained by the Zoning Administrator, shall reference the existence of adopted proffered conditions attached to various properties. Any site plan, subdivision plan, development plat or permit application thereafter submitted for development of property to which proffered conditions have attached shall conform with all such conditions, and shall not be approved by any Town official in the absence of such conformity. For the purpose of this section, conformity shall mean such conformity which leaves a reasonable margin of adjustment due to final engineering data, but conforms with the general nature and intent of the development, the specific uses, and the general layout depicted by the plans, profiles, elevations, and other demonstrative materials presented by the applicant.

6. Minor Modifications. In addition to those determinations the Zoning Administrator may make pursuant to 58-3.30, the Town Planner may make minor modifications as follows:

(a) At the request of an applicant, minor modifications of adopted proffers shall be approved by the Town Planner or designee without requiring a subsequent amendment to the zoning of the property or the adopted proffered conditions. The Town Planner shall only approve a minor modification when the modification meets the definition of conformity specified in Paragraph 5 of this section.

(b) Minor modifications shall not be approved when the modification would exceed minimum or maximum standards prescribed by this chapter. Subsequent minor modifications of adopted proffers which have already been modified shall be permitted in accordance with the provisions of this paragraph, provided that the cumulative degree of modification does not exceed minimum or maximum standards prescribed by this chapter.

(c) For the purpose of this section, minor modifications shall be determined to conform with the adopted proffers when the modification meets one or more of the following criteria:

(i) An increase in the maximum number of children approved for a child-care facility, so long as

the approved number does not exceed (1) 5% of the maximum number of children listed in the adopted proffered conditions; or (2) additional children, whichever is greater. The approval of a minor modification shall not increase the maximum number of children permitted for a child-care facility beyond a maximum prescribed by the Code of Virginia or any other applicable law or regulation.

(ii) An increase in the permitted number of adults for an adult day-care facility, so long as the approved number does not exceed (1) 5% of the maximum, number of adults listed in the adopted proffers; or (2) one additional adult, whichever is greater, and so long as the minimum off-street parking requirement can be attained.

(iii) An increase in the maximum number of students approved for a private school, so long as the approved number does not exceed 5% of the maximum number of students listed in the adopted proffered conditions.

(iv) A modification to the approved building materials, architectural style, or color of building design features, so long as the overall intent as depicted in the approved proffers is maintained.

(v) An increase in the permitted number of employees, so long as the approved number does not exceed (1) 5% of the maximum employees listed in the adopted proffered conditions; or (2) one additional employee, whichever is greater and so long as the minimum off-street parking requirement can be attained.

(vi) An increase in the number of rooms or units at an assisted living facility, so long as the approved increase does not exceed (1) 5% of the maximum number, listed in the adopted proffered conditions; or (2) additional rooms, whichever is greater.

(vii) Changes in a building's minimum floor area ratio (FAR) specified in an adopted proffered condition, so long as the building's gross floor area is increased or reduced by no more than 0.1 FAR and so long as the maximum gross floor area is not increased beyond the maximum gross floor area prescribed in the zoning district standards.

(viii) Changes in a building's minimum or maximum height specified in an adopted proffered condition, so long as the building's height is increased or reduced by no more than 10 feet and so long as the height is not increased beyond the maximum height prescribed in the zoning district standards.

(ix) Changes to a stormwater management facility as depicted on an approved master zoning plan or approved generalized development plan, so long as no additional land disturbance would be required beyond that shown in the plan's limits of clearing and grading to the satisfaction of the Public Works Director, or designee.

(x) Minor changes to the site layout or configuration, provided impacts to adjacent properties are mitigated.

Sec. 58-4.18. - Conditional zoning enforcement.

1. The Zoning Administrator shall be vested with all necessary authority on behalf of the Haymarket Town Council to enforce conditions that have attached to Special Use Permits, or to rezonings (zoning map amendments) which have been proffered by an applicant for rezoning and accepted by the Haymarket Town Council in accordance with the provisions of the chapter. The Zoning Administrator may, in exercise of his discretion, issue a violation notice and correction order that orders the remedy of any noncompliance with any such conditions, or bring legal action to ensure compliance including injunction, abatement or other appropriate

action or proceeding including the institution of criminal process; or any combination of the above deemed necessary to obtain compliance.

2.As part of the bonding procedures established, the Zoning Administrator or other Town official designated by the Administrator may require with final plans of any owner a guarantee (bond, assurance, sanction) satisfactory to the Haymarket Town Council in an amount sufficient for and conditioned upon the construction of any physical improvements required by such conditions or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced or released by the Town Planner upon the submission to the Administrator or his designee of satisfactory evidence that the construction of such improvements has been completed in whole or in part, as appropriate.

3.Failure to meet or comply with any such condition shall be sufficient cause to deny the approval of site plans, subdivision plans, or the issuance of building permits, occupancy permits or other permits or licenses, as may be appropriate. Upon receipt by any public official of appropriate written notice of failure to meet such conditions, signed by the Zoning Administrator, said public official shall not issue any approvals, permits or licenses to the alleged violator until such official has received written notification from the Zoning Administrator that the applicant for approvals, permits or licenses has remedied all noncompliance with the such conditions.

4.Any applicant for approvals, permits or licenses who is aggrieved by a decision of the Zoning Administrator pursuant to the provisions of this section may petition either the Haymarket Town Council or the Board of Zoning Appeals for a review thereof, by filing a written notice thereof with the Town Clerk and the Zoning Administrator within 30 days after notice of the decision has been received. Said 30-day period shall be deemed jurisdictional. Such notice shall set forth with reasonable specificity the basis for such appeal and shall include payment of such fee as may be set by the Haymarket Town Council. The Haymarket Town Council or the Board of Zoning Appeals shall act upon any appeal within 30 days unless there is no regular meeting scheduled, in which case the Haymarket Town Council or the Board of Zoning Appeals shall act at its next regular meeting. The decision of the Haymarket Town Council or the Board of Zoning Appeals on such appeal shall be final.

Sec. 58-3=4.19. - Review of text and map amendments.

Every proposed amendment to the text of this chapter or zoning map shall be reviewed as provided for in the following sections.

Sec. 58-3=4.20. - Review by the Town Planner; comment by reviewing agencies.

1.When an amendment to the text of this chapter has been proposed, and when an amendment to the zoning map has been initiated, the Town Planner shall cause the amendment to be expeditiously reviewed by such staff, departments, offices, agencies, or other personnel as he finds appropriate.

2.In the case of an application for a zoning map amendment, the review shall include an examination of the applicant's proffer statement, if any. The Town Planner, or his designee, may suggest revisions to the proffer statement in order to clarify the proffers volunteered by the applicant. In addition, before the application is scheduled for a public hearing before the planning commission, the Town Planner or his designee shall present to the applicant a summary of the findings of the review in order that the applicant may make modifications of his application should he desire to do so. No substantial change shall be made in any proffered condition after the public hearing commences before the Haymarket Town Council, unless it is readvertised in accordance with the provisions of this chapter.

3. Proposed amendments shall be considered with reasonable consideration for the:

- (a)Existing use and character of the area;
- (b)Suitability of the property for various uses;

(c) Trends of growth or change:

(d) Current and future requirements of the Town as to land for various purposes as determined by population and economic studies and other studies;

(e) Transportation requirements of the community and the Town's requirements for parks, playgrounds, recreation areas, other public services, or the conservation of natural resources and preservation of floodplains; and

(f) Conservation of properties and their values and the encouragement of most appropriate use of land throughout the Town.

These considerations shall include but are not limited to comprehensive plans or their parts, capital improvement programs, relation of development to roads and construction programs, and the proximity of the development to utilities and public facilities.

4. Reviewing agencies shall evaluate the application. A written summary of their findings and recommendations shall be forwarded to the Town Planner in accordance with the schedule established for the application.

5. After the Town Planner shall have presented a summary of the review findings to the applicant, the application shall be referred to the planning commission for public hearing. The Town Planner shall not be required to refer such application immediately, but shall consider the applicant's preference, the planning commission's schedule, and the appropriate use of Town staff.

6. When referring an application to the planning commission, the Town Planner shall cause a report to be prepared for the commission's review, and such report shall include a recommendation on the application.

7. Amendments to the zoning map not initiated by an application of a property owner, and amendments to the text of this chapter, shall be referred to the planning commission in a timely fashion after a report, including recommendation, shall have been prepared by the Town Planner or his designee.

Sec. 58-4.21. - Consideration by the planning commission.

1. The planning commission shall hold at least one (but may hold more than one) public hearing on all text and map amendments. The commission may continue a public hearing until another date; or close a public hearing but continue consideration of the amendment until another date; or it may make its recommendation following the first public hearing. In addition, the commission may reopen a closed public hearing to receive additional public comment, provided notice of such a reopened hearing shall be given in accordance with the provisions of this chapter. At the first public hearing (and at subsequent hearings as is necessary) the Town Planner, or his designee, shall present to the commission the report and recommendation of the Planning Office.

2. The planning commission shall have 90 days from the date of the first public hearing to consider an amendment to the text, the zoning map, or both. Failure of the commission to make a recommendation within the 90-day time period shall be deemed a recommendation of approval. However, if at any time after the date of the first public hearing an applicant shall make a change in the application, the commission shall have 90 days from the date the change is presented to the Town Planner within which to consider and make a recommendation on the amendment.

3. An applicant for a zoning map amendment may request that consideration of (and the recommendation on) his application be deferred past the 90-day time period established in subsection 2. above. Such request shall be submitted in writing to the chairman of the planning commission and the Town Planner before the public hearing, or, if such a request is made at the public hearing, it shall be reduced to a written request within five days. Such request, and the commission's resolution of deferral, shall contain a date certain for holding or

resuming the public hearing. The commission shall then have 90 days from the date to which the application was deferred to consider and make a recommendation on the application, and failure to do so within that time period shall be deemed a recommendation for approval.

4. In making its recommendation to the Haymarket Town Council, the commission may recommend approval or denial of an amendment, or any part thereof as the public necessity, convenience, general welfare or good zoning practice may require. The commission may also recommend modifications to an amendment, including, in the case of a zoning map amendment, a different zoning classification than requested, provided that if the zoning classification recommended is a more intense, or higher, classification than that requested, at least one additional public hearing, with notice given in accordance with the provisions of this chapter, shall be held. The commission may also, in the case of a zoning map amendment, recommend reducing the area of the proposed amendment; or may recommend increasing the area of the proposed amendment provided at least one additional public hearing, with notice given in accordance with the provisions of this chapter, is held.

Sec. 58-3=4.22. - Consideration by the Haymarket Town Council.

1. Following the planning commission's recommendation on an amendment, the Haymarket Town Council shall hold at least one (but may hold more than one) public hearing on such amendment, with notice given in accordance with the provisions of this chapter. At such hearing(s) the Town Planner, or his designee, shall present to the Haymarket Town Council the report and recommendation of the planning commission and the Planning Office.

2. The Haymarket Town Council may continue a public hearing until another date; or close a public hearing but continue consideration of the amendment until another date; or it may take action following the first public hearing. The Haymarket Town Council shall have one year from the date a zoning map amendment is initiated to act on the amendment, unless the applicant requests or consents to action beyond such period. This time period shall not include any length of time an application for a zoning map amendment was deferred at the request of the applicant. In addition, whenever an applicant shall make a change in his application, the one-year time period shall run from the date the change is received by the Town Planner.

3. Once notice of a public hearing before the Haymarket Town Council on an amendment is given in accordance with the provisions of this chapter, the applicant may make a substantial change in his application only if the application is referred back to the planning commission for further consideration and recommendation. In such a case, the process described in section 32-700.42 of this chapter shall apply. The Haymarket Town Council shall determine whether a change is substantial.

4. In considering an amendment, the Haymarket Town Council may approve or deny the amendment, or any part thereof as the public necessity, convenience, general welfare or good zoning practice may require. In the case of an amendment to the zoning map, the Haymarket Town Council may approve an amendment to a lesser area than initiated, and may approve a less intense, or lower, zoning classification than initiated. If the Haymarket Town Council desires to consider a zoning map amendment for a greater area, or to a more intense, or higher, zoning classification than initiated, the amendment shall be referred back to the planning commission for further consideration and recommendation. In such a case, the process described in section 58-3.21 of this chapter shall apply.

Sec. 58-4.23. - Matters to be considered in reviewing amendments.

The planning commission, in considering its recommendation on an amendment, and the Haymarket Town Council, in considering what action to take on an amendment, shall review the amendment with consideration for the purposes and intent of this chapter. In addition, only those written and graphic materials that have been referenced in a proffer statement may be displayed at any public hearing before the planning commission or the Haymarket Town Council.

Sec. 58-4.24. - Interpretation by Zoning Administrator.

In determining whether site and subdivision plans submitted are in conformity with a zoning map amendment, the Zoning Administrator shall give weight to the following, in descending order of importance:

- 1.This chapter 58.
- 2.Any other applicable federal, state or local law, ordinance or regulation.
- 3.The applicant's proffer statement, if any.
- 4.The master zoning plan, if any.
- 5.The development analysis, if any.
- 6.The staff report prepared for consideration by the Haymarket Town Council at the time of rezoning.

Sec. 58-4.25. - Application for a Special Use Permit.

1.An application for a Special Use Permit may be made by a property owner, for his property, for any Special Use Permitted in the zoning district in which his property is located. A duly authorized agent for an owner may make application, provided a legally sufficient power of attorney, meeting the requirements of subsection 58-3.7.1(c) as approved by the Town Attorney's office, has been executed.

2.In addition to an application by a property owner, a Special Use Permit application may be initiated by resolution of the Haymarket Town Council, or by resolution of the planning commission.

3.An application for a Special Use Permit shall be made to the Planning Office and shall include the items listed in this section. Except for the filing fee, and unless otherwise determined at a pre application conference by the Town Planner or his designee, 8 collated sets of the following information shall be submitted:

(a)Those items listed by subsections 58-3.11.1, 58-3.11.2, 58-3.11.3 and 58-3.11.5 through 58-3.11.12.

(b)A Special Use Permit plan. The elements required in the Special Use Permit plan shall be determined by the Town Planner or his designee following the pre application conference required by section Sec. 58-3.9 based upon the size, scale, complexity and impact of the proposed request. When required, each element of the Special Use Permit plan shall conform to the standards set forth hereafter unless specifically waived or modified by the Town Planner or his designee:

- (1)An environmental constraints analysis in accordance with section 58-3.12.6.
- (2)Phasing plan, if applicable.
- (3)Special signage proposals, if desired.
- (4)General site grading plan.

(c)Other information as desired by the applicant.

(d)Such additional information as may be reasonably required by the Town in order for the Planning Office, the planning commission, or the Haymarket Town Council to make a proper evaluation of the proposal, such as but not limited to:

(1)Hours of operation.

(2)Estimated number of patrons, clients, patients, pupils, etc.

(3)Estimate the distribution of traffic by mode and time of day.

4.Except for the filing fee, the Town Planner may waive the submission requirements, or any portion thereof, set forth in subsection 3. above, provided such information is not necessary for the proper review of the application.

5.The Town shall be under no obligation to accept an application for a Special Use Permit if it does not meet all of the requirements of section 32-700.50 of this chapter.

Sec. 58-4.26. - Review process for an application for a Special Use Permit.

An application for a Special Use Permit shall be reviewed in a manner similar to an application for a zoning map amendment, as set forth by sections 58-3.20, 58-3.21 and 58-3.22 of this chapter, provided, however, that the one year time limit in section 58-3.22 shall not apply.

Sec. 58-4.27. - Concurrent processing.

Site and subdivision plans can be concurrently processed with a Special Use Permit application consistent with the long range land use designation of the Comprehensive Plan upon the request of the applicant if the applicant acknowledges responsibility for costs related to site and subdivision plan submittal regardless of whether the Special Use Permit application is approved or denied. The submission of plans may not be accepted until the first round of comments have been received from Special Use Permit application review agencies.

Sec. 58-4.28. - Matters to be considered in reviewing an application for a Special Use Permit.

The planning commission, in considering its recommendation on an application for a Special Use Permit, and the Haymarket Town Council, in considering what action to take on an application for a Special Use Permit, shall review such an application with consideration for the following factors:

1.The nature of the proposed use, including factors such as traffic, noise, light, hours of operation, and number of employees involved.

2.The character of the existing area, including existing structures and structures under construction, existing public facilities and public facilities under construction, and private, commercial and/or service facilities available within the existing area.

3.The area's designation on the Town's Comprehensive Plan, and relevant text provisions of the plan.

4.The minimum off-street parking area required and the amount of space needed for the loading and unloading of trucks.

5.Whether the public health, safety and welfare will be preserved, and any reasonable conditions necessary for such preservation.

6.Any other factors relating to the purposes of zoning that the planning commission and/or Haymarket Town Council, in its legislative discretion, shall consider as relevant.

Sec. 58-4.28. - Conditions attached to the approval of a Special Use Permit.

1. In approving a Special Use Permit, the Haymarket Town Council may attach reasonable conditions, including an expiration date, to such approval with or without the applicant's consent. Once a Special Use Permit is approved with conditions attached, such conditions shall be considered as a part of the text of this chapter, and may be administered and enforced by the Zoning Administrator. A violation of an attached condition shall be considered a violation of this chapter.

2. A condition attached to the approval of a Special Use Permit may only be modified by a subsequent application for a Special Use Permit or by the approval of a minor modification in accordance with Sec. Sec. 58-3.30.

Sec. 58-4.29. - Special Use Permit general provisions.

1. After approval of a Special Use Permit by the Haymarket Town Council, the applicant shall have one year to submit site or subdivision plans for the approved use and shall occupy the site and commence the use within five years of approval of the site plan, provided that the Haymarket Town Council may allow, at the time and as part of approval, a longer period. If the use has not begun as provided above, the Special Use Permit shall be void, and the use may not thereafter be begun except upon approval of another Special Use Permit.

2. After approval of a Special Use Permit by the Haymarket Town Council, the use approved may intensify and/or expand, provided that any conditions attached to the approval shall not be violated. If intensification and/or expansion will violate any attached conditions, the intensification and/or expansion may be reviewed and approved as a minor modification or minor deviation pursuant to Sec. 58-3.30. Intensifications and/or expansions which cannot be authorized as described herein and which are ineligible for review as a minor modification or minor deviation shall not be approved unless a subsequent Special Use Permit application is approved that reflects the intensification and/or expansion.

3. Except for family day-care permitted and not conditioned upon site plan approval, all uses permitted by a Special Use Permit shall require site plan approval in accordance with the provisions of this chapter.

4. If an approved special use ceases operation for a period of one year, for any reason, the Special Use Permit shall become void, and thereafter the use may only be conducted after another Special Use Permit has been approved.

5. A Special Use Permit shall be transferable with the land, provided that the use for which it was obtained does not change.

6. Unless otherwise provided in the permit, a Special Use Permit shall have an indeterminate duration provided that the use for which it was obtained is commenced as required in subsection 2. and continues without abandonment as provided in subsection 4. in accordance with its terms.

Sec. 58-4.30. - Special Use Permit deviation.

Minor deviations from an approved Special Use Permit plan are allowed without filing of a new Special Use Permit application provided all deviations are shown on a site or subdivision plan. The Zoning Administrator shall determine, prior to the approval of site or subdivision plans, that the deviation(s) do not substantially alter conditions of the approved Special Use Permit or the approved Special Use Permit master plan. If the Zoning Administrator can not authorize a minor deviation as described herein, the deviation may be reviewed and approved as a minor modification pursuant to Paragraph 1 below. Minor deviations which cannot be authorized as described herein and which are ineligible for review as a minor modification may only be modified by a subsequent application for a Special Use Permit.

1. Minor Modifications. In addition to those determinations the Zoning Administrator may make pursuant to 58-3.30, the Town Planner may make minor modifications as follows:

(a) At the request of an applicant, minor modifications of adopted Special Use Permit conditions shall be approved by the Town Planner or designee without requiring a subsequent amendment to the Special Use Permit or the adopted conditions. Town Planner shall only approve a minor modification when the modification meets the definition of conformity specified in Paragraph 5 of Sec. 58-3.17.

(b) Minor modifications shall not be approved when the modification would exceed minimum or maximum standards prescribed by this chapter. Subsequent minor modifications of adopted Special Use Permit conditions which have already been modified shall be permitted in accordance with the provisions of this paragraph, provided that the cumulative degree of modification does not exceed minimum or maximum standards prescribed by this chapter.

(c) For the purpose of this section, minor modifications shall be determined to conform with the adopted Special Use Permit conditions when the modification meets one or more of the following criteria:

(i) An increase in the maximum number of children approved for a child-care facility, so long as the approved number does not exceed 5% of the maximum, or a minimum of one, whichever is greater, number of children listed in the adopted Special Use Permit conditions. The approval of a minor modification shall not increase the maximum number of children permitted for a child-care facility beyond a maximum prescribed by the Code of Virginia or any other applicable law or regulation.

(ii) An increase in the permitted number of adults for an adult day-care facility, so long as the approved number does not exceed (1) 5% of the maximum number of adults listed in the adopted Special Use Permit conditions; or (2), one additional adult, whichever is greater and so long as the minimum off-street parking requirement can be attained.

(iii) An increase in the maximum number of students approved for a private school, so long as the approved number does not exceed (1) 5% of the maximum number of adults listed in the adopted Special Use Permit conditions; or (2), one additional student, whichever is greater.

(iv) A modification to the approved building materials, architectural style, or color of building design features, so long as the overall intent as depicted in the approved Special Use Permit conditions shall be maintained.

(v) An increase in the permitted number of employees, so long as the approved number does not exceed (1) 5% of the maximum employees listed in the adopted Special Use Permit conditions; or (2) one additional employee, whichever is greater and so long as the minimum off-street parking requirement can be attained.

(vi) An increase in the number of rooms or units at an assisted living facility, so long as the approved increase does not exceed (1) 5% of the maximum number listed in the adopted Special Use Permit conditions; or (2) one additional room, whichever is greater.

(vii) Changes in a building's minimum floor area ratio (FAR) specified in an adopted Special Use Permit condition, so long as the building's gross floor area is increased or reduced by no more than 0.1 FAR and so long as the maximum gross floor area is not increased beyond the maximum gross floor area prescribed in the zoning district standards.

(viii) Changes in a building's minimum or maximum height specified in an adopted Special Use Permit condition, so long as the building's height is increased or reduced by no more than 10 feet and so long as the height is not increased beyond the maximum height prescribed in the zoning district standards.

(ix) Changes to a stormwater management facility as depicted on an approved Special Use Permit plan, so long as no additional land disturbance would be required beyond that shown in the plan's limits of clearing and grading, to the satisfaction of the Public Works Director or designee.

(x) Minor changes to the site layout or configuration, provided impacts to adjacent properties are mitigated.

(d) Minor modifications to mobile and land-based telecommunications facilities shall be subject to the standards specified in Part 240.

Sec. 58-4.31. - Revocation of Special Use Permits.

1. The Haymarket Town Council may, by resolution, initiate a revocation of a Special Use Permit. When initiated, the revocation process shall be handled as would a new application for a Special Use Permit, following the procedures set forth in section 58-3.25 of this chapter.

2. After review by the Planning Office and consideration and recommendation by the planning commission, the Haymarket Town Council shall act on the proposal to revoke the Special Use Permit. Grounds for revocation shall include (but not be limited to) the following:

(a) A change in conditions affecting the public health, safety and welfare since adoption of the Special Use Permit; or

(b) Repeated violations of this chapter, including any conditions attached to the Special Use Permit, by the owner/operator of the use; or

(c) Fraudulent, false or misleading information supplied by the applicant (or his agent) for the Special Use Permit; or

(d) Improper public notice of the Special Use Permit public hearing(s) when the permit was considered by the planning commission or the Haymarket Town Council; or

(e) An error or mistake in fact that led to an arbitrary and unreasonable decision made by the Haymarket Town Council when approving the Special Use Permit.

Sec. 58-4.32. - Refiling following denial; withdrawal; deferral.

1. Upon denial of any application by a property owner for an amendment or Special Use Permit, no further application concerning any or all of the same property that is substantially the same as the application denied shall be made within one year from the date of such denial.

2. An application for an amendment or Special Use Permit may be withdrawn at any time; provided, that if the request for withdrawal is made after publication of the notice of any public hearing, no application for substantially the same amendment or Special Use Permit on all or any part of the same property may be filed within six months of the withdrawal date.

3. In no event shall there be any refund of fees in the case of withdrawal after publication of the notice of any public hearing.

4. Whenever consideration of an amendment or Special Use Permit is deferred after notice of any public hearing has been first published, the applicant shall bear the additional advertising costs.

Sec. 58-4.33. - Dismissal of applications.

If an applicant refuses or neglects to pursue his application for an amendment or a Special Use Permit, the Haymarket Town Council may by resolution declare the application dismissed. Notice of intent to dismiss an application shall be sent certified mail, return receipt requested, to the applicant at the address listed on his application at least 15 days prior to the date the Haymarket Town Council has scheduled action on the proposed dismissal. If an application is dismissed, no fees shall be refunded, and for an application for a map amendment no other application substantially the same as the one dismissed shall be filed within one year of the date of dismissal.

Sec. 58-4.34. - Appeals.

Every action contesting a decision of the Haymarket Town Council adopting or failing to adopt a proposed zoning ordinance or amendment thereto affecting the map or text of this chapter or granting or failing to grant a special exception shall be filed within 30 days of such decision with the Circuit Court having jurisdiction of the land affected by the decision.

ARTICLE V. – ENFORCEMENT

Commented [47]: Emily/Bob

Sec. 58-5.1 -Inspection Warrants

The zoning administrator or his agent may make an affidavit under oath before a magistrate or circuit court, and if such affidavit establishes probable cause that a zoning ordinance violation has occurred, request that the magistrate or court issue the zoning administrator or agent an inspection warrant to enter and inspect the subject dwelling. The zoning administrator or his agents shall make a reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant.

Sec. 58-5.2 – Notice of Zoning Violation

- (a) Upon becoming aware of any violation of the provisions of this chapter, the Administrator may issue written notice of such violation to the owner of the property, or the owner's agent, and to the person committing or permitting the violations, if different from the owner. Notice shall be mailed by registered or certified mail or hand delivered.
- (b) The notice of violation shall state the nature of the violation, date that it was observed, the remedy or remedies necessary to correct the violation and a reasonable time period for the correction of the violation.
- (c) Every written notice of violation of the Administrator shall include a statement informing the recipient that he or she may have a right to appeal the notice of zoning violation or written order within 30 days in accordance with this section. The decision shall be final and unappealable if not appealed within 30 days.
- (d) If the recipient chooses to appeal, an appeal fee shall be submitted as established by a Council adopted Fee Schedule.
- (e) Appeals shall be heard by the Board of Zoning Appeals in accordance with the procedures set forth in Article VI of this chapter.

Sec. 58-5.3 - Penalties for violation of chapter.

- (a) Upon becoming aware of any violation of the provisions of this chapter, the Administrator may proceed to issue a civil summons consistent with Code of Virginia, § 15.2-2209.

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- (b) Any person violating this chapter shall be guilty of a misdemeanor punishable as provided by state code.
- (c) The violation may be prosecuted as a criminal misdemeanor.
- (d) If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with this chapter, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate offense punishable by an additional civil fine and any other penalties as ordered by the court.
- (e) The description of any lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring a lot shall not exempt the transaction from any penalties for violation of the subdivision ordinance, or from the remedies provided in this chapter.

State Law reference— *Penalties for violation of zoning ordinance, Code of Virginia, § 15.2-2286(A)(5).*

ARTICLE VI. - PROVISIONS FOR APPEAL^[9]

Footnotes:

--- (9) ---

State Law reference— *Boards of zoning appeals, Code of Virginia, § 15.2-2308 et seq. Sec. 58-5.1 - Board of zoning appeals generally.*

(a) A board of zoning appeals (BZA) consisting of five members shall be appointed by the circuit court of the county.

Sec. 58-6.1 - Rules and regulations of board of zoning appeals.

- (a) The board of zoning appeals shall adopt such rules and regulations as it may be considered necessary.
- (b) All meetings of the board shall be open to the public unless a closed session consistent with the Virginia FOIA laws is properly convened and certified.
- (c) The Administrator shall maintain all records of the BZA.

Sec. 58-6.2 - Appeal procedure.

- (a) Appeals shall be conducted in a manner consistent with the Code of Virginia.
- (b) Appeals requiring an advertised public hearing shall be accompanied by a fee as set by the Town Council, payable to the Treasurer of the Town.

ARTICLE VII. MINIMUM OFF-STREET PARKING AND LOADING

Sec. 58-7.1 - Minimum off-street parking and loading.

- (a) *Minimum standards.* At the time of erection of any main building, or at the time any main building or its accessory uses is enlarged or the use changed, all provisions of article XIII shall be met along with minimum required off-street parking and loading space with adequate provision for entrance and exit of motor vehicles, in accordance with the following table.
- (b) Parking space as required in this section shall be on the same lot with the main building; except that in the case of buildings other than dwellings, spaces may be located as far away as 750 feet. Every parcel of land used as a public parking area and motor vehicle ways shall be surfaced with all weather surfaces, excluding gravel surfaces. It shall have appropriate guards where needed as determined by the administrator. Any lights used to illuminate such parking areas

shall be so arranged as to reflect the light away from adjoining premises in a residential district.

Table of Parking Requirements

Abbreviations:

- GFA means gross square feet of floor area, as defined
- NFA means net square feet of floor area, as defined. For the purposes of these parking standards, Net Floor Area (NFA) is equivalent to 75% of the Gross Floor Area
- SF means square feet
- DU (d.u.) means dwelling unit
- BR means bedroom

Note: 'employee' always refers to the number of employees on the largest shift

Note: Code of Virginia, § 15.2-2291 requires that **group homes** be regulated like single family homes

Residential		
<i>Uses</i>	<i>Minimum Parking</i>	<i>Minimum Loading</i>
Single family detached dwelling	2 per dwelling unit, exclusive of garage	-
Single family attached and two family (townhouse and duplex)	2.25 per d.u. Inclusive of minimum of .25 for visitor parking which must be distinct from d.u.)	-
Apartments on second floor of structures designed for commercial use	1.5 per d.u. (spaces must be assigned to each dwelling)	-
Assisted living facility	1 per 4 d.u. plus 1 per employee	-
Active adult/ age restricted	1.5 per d.u.	-
Accessory apartment (as defined)	1 per d.u.	-
Group Home	See standard for the residential unit type	-

Commercial		
<i>Uses</i>	<i>Minimum Parking</i>	<i>Minimum Loading</i>
Home Occupation B	Meet the residential requirement, plus 1 per non-resident employee	-
Hotels/lodging	1.1 per room (included restaurants/meeting spaces subject to separate standards)	--
Bed and Breakfast	Meet residential requirement, plus 1 per guest room	-
Medical, dental offices and clinics	1 per 200 square feet of gross floor area (GFA)	-
Retail use, general, liquor, drug, convenience	1 per 250 SF of GFA	1 per 30,000 up to 70,000 SF plus 1 per 100,000 SF after
Other, low intensity commercial and personal services, as defined	1 per 300 SF of GFA	Same as retail use, all
Retail, grocery (excluding quick-service store)	1 per 250 SF of GFA	1 up to 12,000 GSF, then 1 per 24,000 GSF
Funeral home, mortuary, chapel	1 per 4 seats plus 1 per 2 employees plus 1 for each hearse	1
Commercial, Motor Vehicle Repair		-
sales, waiting and offices	1 per 400 SF of GFA of enclosed area plus 1 per employee, and	Same as industrial
service area	3 per service bay	-
Gasoline Station		
fuel only	1 per fueling station	1
fuel w/ service	.75 per fueling station plus 1 per 200 SF of GFA	1
Garden Center	1 per 200 SF of GFA plus 1 per 1,300 square feet of outdoor area	1 per 60,000 GSF
Office, general business or professional	1 per 300 SF of GFA	None for first 30,000 SF then 1 per 100,000 SF after
Retail, convenience	1 per 200 SF of GFA plus 1 per 1,300 SF of outdoor area	-

Recreational Uses		
Bowling Alley	4 per lane	-
Fairground/Carnival/Circus	1 per 400 SF of NFA	-
Miniature Golf	2 per tee for 36 tees, then 1 per tee	-
Recreation facility, public; indoor fitness and sport activities	1 per 300 SF of GFA	-
Parks and playground	3 per acre	-
Hard or soft courts (indoor and outdoor)	4 per court	-
Swimming pools	1 per 150 SF of water space	-
Restaurants		
Quick-service/carryout (no drive thru)	1 per 100 SF of GFA	1 per 40,000 SF GFA
Drive-in; drive-through	1 per 100 SF of GFA	1 per 40,000 SF GFA
Veterinary;kennel; doggy day care	1 per 300 SF of GFA	-
Recreation, entertainment	1 per 3.5 seats by design capacity	-
Other, not listed	1 per 300 SF of GFA	-

Institutional		
<i>Uses</i>	<i>Minimum Parking</i>	<i>Minimum Loading</i>
School, public and private	1 per classroom and other room used by students plus 0.2 per student above driving age	-

Municipal building	1 per 300 SF of GFA	-
Other, public uses	(same as municipal)	-
Places of assembly, including religious assembly, private clubs, lodges, or meeting halls	1 per 4 seats of design capacity	1 per 100,000 SF of GFA

Industrial		
<i>Uses</i>	<i>Minimum Parking</i>	<i>Minimum Loading</i>
Self storage center/mini warehouse	1 per 250 SF of GFA of office space plus 1 per employee	-
General manufacturing, assembly and manufacture	1 per 1,000 SF of GFA	1 per 50,000 SF of GFA
Laboratories, pharmaceutical and/or medical	1 per 300 SF of GFA	1 per 50,000 SF of GFA
Outdoor storage of equipment	1 per 300 SF of GFA of office area	1 per 50,000 SF of GFA
Warehouse and wholesale businesses, storage warehouses	1 per 1,000 SF of GFA	1 per 50,000 SF of GFA
If office space exceeds 50% of net floor area of any industrial use	Parking for the office areas must meet requirements for office, general business or professional	-

ARTICLE VIII. - USE CHART

P- by-right

S- special use

ARTICLE IX. - RESIDENTIAL DISTRICT R-1

Sec. 58-9.1 - Intent.

The residential district R-1 is composed of quiet, low-density single family homes. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to minimize activities of a commercial nature. Development is limited basically to single-unit dwellings providing homes for the residents plus certain additional uses such as public facilities that serve the residents of the district.

Sec. 58-9.2 - Area regulations.

The minimum lot area shall be 10,000 square feet.

Sec. 58-9.3 - Setback regulations.

Structures in the R-1 district shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or 50 feet or more from the center of any street right-of-way less than 50 feet in width. This shall be known as the setback line.

Sec. 58-9.4 - Frontage regulations.

For permitted uses in the R-1 district, the minimum lot width at the setback line shall be 75 feet or more.

Sec. 58-9.5. - Yard regulations.

- (a) Side. The minimum side yard for each main structure in the R-1 district shall be ten feet, and the total width of the two side yards shall be at least 20 feet.
- (b) Rear. Each main structure shall have a rear yard of 25 feet.

Sec. 58-9.6 - Height regulations.

- (a) Permitted uses in the R-1 district may be erected up to 35 feet in height from grade: building not be more than three stories above grade.
- (b) Accessory buildings more than five feet from any lot line in the R-1 district may be erected to a height no more than 15 feet above grade.
- (c) Church spires, belfries, cupolas, monuments, municipal water towers, chimneys, flues, flagpoles, television antennas, and radio aerials are permitted up to 50 feet in height. Parapet walls may be permitted per the building code above the height of the building on which the walls rest.

Sec. 58-9.7 - Corner lots.

- (a) .
- (b) The side yard on the side facing the street shall be 20 feet or more for both main and accessory buildings.

Sec. 58-9.8. - Maximum lot coverage.

The maximum lot coverage shall be 30 percent. An approved surfaced area shall include asphalt, poured or

precast concrete, brick, stone, gravel, other approved impervious surfaces, grass pavers or other approved pervious surfaces.

Sec. 58-9.9. - Residential Parking and Storage of Vehicles

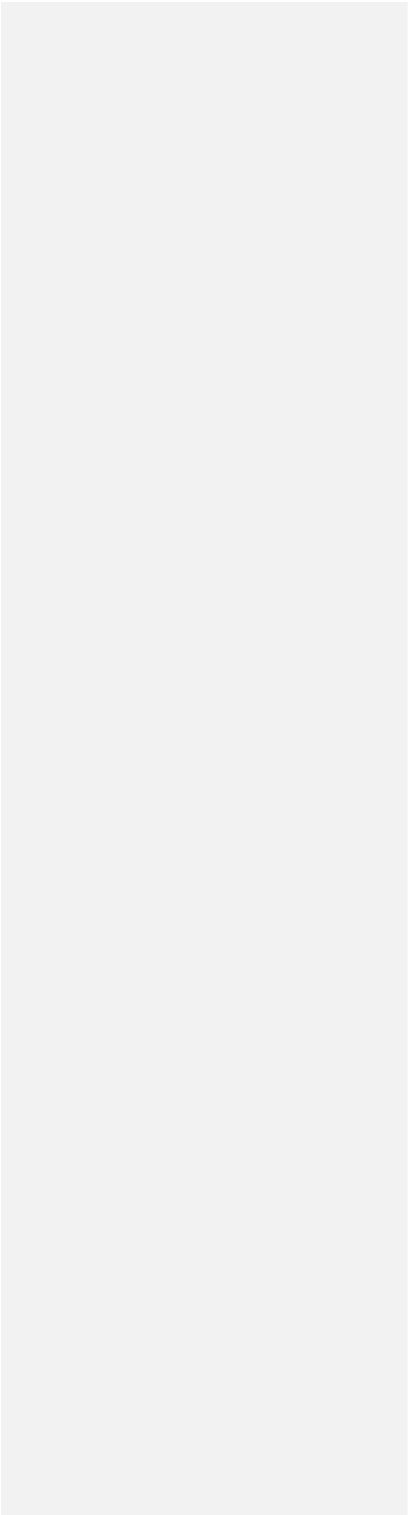
For single family detached dwellings on lots containing 36,000 square feet or less in the R-1 district, all parking for vehicles, recreational vehicles, and commercial vehicles in a front yard shall be on a surfaced area, for a

period not to exceed 48 hours for loading, unloading, cleaning or repair of vehicles or trailers. All trailers should be unhitched from the towing vehicle. No vehicle parked on a surfaced area shall block the public right of way to include the street and sidewalk. The storage of any number of inoperable motor vehicles, to include inoperable commercial motor vehicles, for more than 7 consecutive days is prohibited.

A. —

Sec 58-9.13 - Property Improvements

a) Fences. Fences in the R-1 district shall be no more than six (6) feet in height and adhere to the Architectural Review Board stipulations, where applicable.



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ARTICLE X. - RESIDENTIAL DISTRICT R-2

Sec. 58-10.1 - Intent.

The residential district R-2 is intended for use within those areas near the central core of the Town. This district should provide a suitable environment for families and persons seeking the amenities and convenience of townhouse living, or as an option, small lot detached single-family lots or conventional single-family lots without fear of encroachment or dissimilar uses. This district is designed to stabilize, protect and promote this type of development.

~~Sec. 58-9.2 – Use regulations.~~

~~In residential district R-2 the following uses are permitted by right:~~

~~Residential~~

~~Family health care structure, temporary Group home
Single-family dwelling, attached Single-family dwelling, detached
Townhouse
dwelling, multi-family
dwelling, townhouse~~

~~Civic~~

~~Recreation facility, public Religious assembly~~

~~Commercial~~

~~Business, short term rental (STRB) Family day home
Home occupation, Class A~~

~~Miscellaneous~~

~~Amateur radio antenna Garage, private Greenhouse
Recreation facility, private Utility service, minor~~

~~Sec. 58-9.3 – Special uses.~~

~~The following uses may be permitted in the R-2 district with a special use permit:~~

~~Civic~~

~~Club~~

~~Educational facility, primary/secondary~~

~~Commercial~~

~~Bed and breakfast
Home occupation, Class B~~

~~Miscellaneous~~

~~Parking facility Utility service, major~~

~~Sec. 58-8.4 – Occupancy Regulations.~~

~~The number of unrelated individuals permitted to occupy a single family residential dwelling unit is limited to a~~

Sec. 58-10.2 - Area regulations.

General

- (a) The minimum lot area in the R-2 district shall be 8,000 square feet. Maximum coverage shall be 30% unless otherwise noted.
- (b) For lots containing or intended to contain a permitted use, except townhouses and small lot detached single-family dwellings, not more than 30 percent of the gross lot area may be covered by buildings, including accessory structures.

Townhouse

- (c) For lots designed for the development of townhouse structures, the average lot area of all lots within any development phase must equal 2,000 square feet or more with no lot containing less than 1,500 square feet, exclusive of designated common area and open space.
- (d) For lots designed as part of a townhouse development not more than 40 percent of the gross parcel area may be covered by townhouse structures and their accessory structures. In computing the total coverage on any lot or development, an area of 400 square feet per required parking areas and travel ways shall be included as part of such coverage unless private garage facilities are otherwise provided on such a lot.
- (e) Within any townhouse development, the maximum number of units per gross acre shall be eight. The term "gross acre" for the purpose of this section shall include all lands within the exterior boundaries of the lot under development, including drives, parking areas, walkways, parks, school sites and such other open space as may be designated for common use, and public streets established as part of the development.

Small lot detached single family

- (f) For lots designed for the development of small lot detached single-family dwellings, the average lot area of all lots within any development phase must equal 4,200 square feet or more with no lot containing less than 4,000 square feet, exclusive of designated common area and open space.
- (g) For lots designed as part of a small lot detached single-family dwelling, not more than 40 percent of the gross parcel area may be covered by townhouse structures or small lot detached single-family dwellings and their accessory structures. In computing the total coverage on any lot or development, an area of 400 square feet per required parking areas and travel ways shall be included as part of such coverage unless private garage facilities are otherwise provided on such a lot.
- (h) Within any single-family development, the maximum number of units permitted per gross acre shall be four. Within any small lot detached single-family dwelling development, the maximum number of units per gross acre shall be six. The term "gross acre" for the purpose of this section shall include all lands within the exterior boundaries of the lot under development, including drives, parking areas, walkways, parks, school sites and such other open space as may be designated for common use, and public streets established as part of the development.

Sec. 58-10.3 - Frontage regulations.

- (a) For lots containing or intended to contain a permitted use in the R-2 district, except townhouse units and small lot detached single-family dwelling developments, a minimum 75 feet of lot frontage on a public street shall be provided. Frontage shall be measured on a line parallel with the proposed front street line at the minimum required setback line.
- (b) For lots containing a townhouse structure, the minimum lot frontage on a public street, private accessway, or common area shall be 20 feet, and on end units a minimum total lot width of 35 feet is required.
- (c) For small lot detached single-family dwellings, the minimum lot frontage at the building restriction line

on a public street, private accessway, or common area shall be 40 feet, and on corner lots a minimum total lot width of 55 feet is required.

Sec. 58-10.4 - Yard regulations.

- (a) Front. Each lot in the R-2 district shall have a front yard with a minimum depth of 15 feet from building face to the front property line. Such yard area may be encumbered by required driveway areas to garages, but not by accessory structures.
- (b) Side. Each lot shall provide a minimum side yard of 15 feet from building wall to side property line, except in the case of:
 - (1) Interior townhouse units where the party wall creates a zero lot line;
 - (2) End loading units which may have an open porch not more than five feet or more in which an open deck may encroach an additional ten feet towards the property line; and
 - (3) Small lot detached single-family dwellings where the minimum setback from building wall to property line shall not be less than three feet to any property and shall be not less than 20 feet in the aggregate between adjoining structures.
- (c) Rear. Each lot intended for a permitted use, except a townhouse and a small lot detached single-family dwelling, shall provide a minimum rear yard not less than 25 feet in depth measured from the rear building line to the rear property line. Each townhouse and a small lot detached single-family dwelling shall have a rear yard of 20 feet. Accessory buildings may be located within five feet of the rear property line and shall be 80 square feet or less.

Sec. 58-10.5 - Height regulations.

For a main building in the R-2 district, the maximum height shall be 2½ stories, but not over 35 feet; except that a building height may be extended to three stories or a maximum of 40 feet if each side yard is increased one-half foot for each additional foot of building height. Accessory buildings shall be limited to a maximum height of 15 feet within a required yard area.

Sec. 58-10.6 - Maximum lot coverage.

The maximum lot coverage shall be 20 percent. An approved surfaced area shall include asphalt, poured or precast concrete, brick, stone, gravel, other approved impervious surfaces, grass pavers or other approved pervious surfaces.

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Sec. 58-10.7 - Residential Parking and Storage of Vehicles

For townhouse developments and small lot detached single family dwellings on lots containing 8,000 square feet or less in the R-2 district, all parking for recreational vehicles and commercial vehicles in a common shared parking lot or front yard shall be on a surfaced area for a period not to exceed 48 hours for loading, unloading, cleaning or repair of vehicles or trailers. All trailers should be unhitched from the towing vehicle. No vehicle parked on a surfaced area shall block the public right of way to include the street and sidewalk. The storage of any number of inoperable motor vehicles, to include inoperable commercial motor vehicles, for more than 7 consecutive days is prohibited and subject to a zoning violation.

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Sec 58-10.8 - Property Improvements

- a) Fences. Fences in the R-2 district shall be no more than six (6) feet in height and adhere to the Architectural Review Board stipulations, where applicable.

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ARTICLE XI. - TRANSITIONAL COMMERCIAL ZONING DISTRICT TC

Sec. 58-11.1 - Intent.

The primary purpose of this district is to create a low-intensity office, commercial and mixed use area as a transition between residential and commercial areas. The uses in the district should buffer residential areas from the commercial core by minimizing traffic, lighting and hours of operation, by establishing buffers and by establishing other site specific development standards to minimize the impact on adjacent residential uses. To enhance its compatibility with its residential surroundings, any development should be located in existing buildings wherever possible. Adaptive reuse of existing structures is to be encouraged if impacts are mitigated.

Sec. 58-11.2 - Area regulations.

- (a) For lots in excess of one acre, no more than 50 percent of the gross area shall be comprised of residential uses.
- (b) For residential uses, the minimum lot area shall be 5,000 square feet.

Sec. 58-11.3 - Setback and yard regulations.

- (a) Front. Structures in the transitional commercial district may be located to within ten feet of any street right-of-way, provided all sidewalk, easement and streetscape requirements are met.
- (b) Side. Side yards shall have the same regulations as front yards when abutting a street right-of-way. There are no side yard regulations when abutting adjoining similar commercial uses. There shall be a side yard of 25 feet or more when abutting a residential district.
- (c) Rear. Rear yards shall have the same regulations as side yards.

Sec. 58-11.4 - Height regulations.

Permitted and special uses shall be less than 35 feet in height from grade and all buildings not more than two stories above grade.

Sec. 58-11.5 - Coverage regulations.

Maximum structure or building coverage shall not exceed 75 percent of the total lot area, except for adaptive uses of existing structures. Total impervious coverage of a lot shall not exceed 85 percent.

ARTICLE XII. - TOWN CENTER DISTRICT B-1

Sec. 58-12.1 - Intent.

The Town Center District, B-1, provides primarily for retail shopping and personal services to be developed either as a unit or in individual parcels oriented to attracting pedestrian shoppers, tourism and local convenience. Recognizing the economic value of the existing historical area, it shall further be the intent of the district to encourage the retention and rehabilitation of structures and uses in the district that have historic and/or architectural significance. The range, size, hours of operation, lighting, signs and other developmental aspects of permitted uses may be limited in order to enhance the general character and historic nature of the district.

Sec. 58-12.2 - Area regulations.

There are no area regulations in the B-1 district, except for the requirement to connect to municipal sewer systems for new structures. Individual sewage disposal systems are prohibited.

The required area for any such use shall be set by the local health official.

Sec. 58-12.3 - Setback and yard regulations.

- (a) Front. Structures in the B-1 district may be located to within five feet of any street right-of-way.
- (b) Side. Side yards shall have the same regulations as front yards when abutting a street right-of-way. There are no side yard regulations when abutting adjoining similar commercial uses. There shall be a side yard of 25 feet or more when abutting a residential district.
- (c) Rear. Rear yards shall have the same regulations as side yards.

Sec. 58-12.4 - Height regulations.

Permitted uses in the B-1 district may be erected up to 35 feet in height from grade: building not more than three stories above grade. Chimneys, flues, cooling towers, flagpoles, radio or communication towers, or their accessory facilities not normally occupied by workers are excluded from this limitation. Parapet walls may be permitted per the building code above the height of the building on which the walls rest.

Sec. 58-12.5 - Coverage regulations.

Maximum buildable lot coverage in the B-1 district shall not exceed 85 percent of the total lot area.

ARTICLE XIII. - BUSINESS COMMERCIAL DISTRICT B-2

Sec. 58-13.1 - Intent.

The primary purpose of the business commercial district B-2 is to concentrate businesses in a coordinated manner and to provide for more intense commercial and industrial uses away from the Town center. Commercial uses located in this district, while traditionally being oriented to automobile traffic, are intended to have a sufficiently high standard in site layout, design and landscaping to minimize traffic congestion on accessory roadways and minimize the impact of the high volume of traffic at an interchange with adjacent land uses.

~~Sec. 58-13.2 - Use regulations.~~

~~In the B-2 district, the following uses shall be permitted by right:~~

~~Residential~~

~~Accessory apartment
dwelling, multifamily~~

~~Civic~~

~~Club
Cultural services
Education facility, primary/secondary Commercial, Recreation Recreation facility, public
Shelter~~

~~Commercial~~

~~Automobile parts/supply, retail
Bed and Breakfast
MicroBrewery (500 barrels or less annually) or Distillery (5,000 gallons or less annually)
Brewery (over 500 barrels annually) or Distillery (over 5,000 gallons annually)
short term rental, residential (STRR) Business, short-term rental (STRB)
Business support service
Catering, commercial (off premises) Commercial indoor amusement Commercial indoor entertainment
Commercial indoor sports and recreation Communications service
Consumer repair service
Day care center
Farmer's market
Financial institution
Commercial, Recreation
Commercial
Entertainment
Personal services
Guidance services Halfway house
Hotel Laundry
~~continuing Care facility~~ Life care facility
~~Marijuana Establishment~~ Nursing home Office, general Office, medical Pawn shop
Personal improvement services Personal services
~~Restaurant, carry-out/quick service~~
~~restaurant, drive in/drive through~~
~~restaurant, general~~
Restaurant, fast food Restaurant, general Restaurant, Mobile Food unit~~

Commented [54]: Definition now includes 'religious assembly' if religious assembly is wanted as a by-right, public assembly would have to move and would include uses of public assembly.

Sec. 58-13.2 - Area regulations.

There are no area regulations in the B-2 district, except for permitted uses utilizing individual sewage disposal systems; the required area for any such use shall be set by the local health official.

Sec. 58-13.3 - Setback and yard regulations.

- (a) Front. Structures in the B-2 district may be located to within ten feet of any street right-of-way.
- (b) Side. Side yards shall have the same regulations as front yards when abutting a street right-of-way. There are no side yard regulations when abutting adjoining similar commercial uses. There shall be a side yard of 25 feet or more when abutting a residential district.
- (c) Rear. Rear yards shall have the same regulations as side yards.

Sec. 58-13.4 - Height regulations.

Buildings in the B-2 district may be erected up to a height of 35 feet. Buildings shall not exceed three stories. Chimneys, flues, cooling towers, flagpoles, radio or communication towers, or their accessory facilities not normally occupied by workers are excluded from this limitation. Parapet walls may be permitted per the building code above the height of the building on which the walls rest.

Sec. 58-13.5 - Coverage regulations.

Maximum buildable lot coverage in the B-2 district shall not exceed 85% percent of the total lot area. Maximum lot coverage in the B-2 district shall not exceed 85 percent.

ARTICLE XIV. - LIMITED INDUSTRIAL DISTRICT I-1

Sec. 58-14.1 - Intent.

The primary purpose of the limited industrial district I-1 is to permit certain industries, which do not in any way detract from residential desirability, to locate on designated sites. The limitations on (or provisions relating to) height of building, horsepower, heating, flammable liquids or explosives, controlling emission of fumes, odors, and/or noise, landscaping, and the number of persons employed are imposed to protect and foster adjacent residential desirability while permitting industries to locate near a labor supply and demand base. This district excludes heavy industry that generates high levels of noise, odor, soot, or vibration, or that requires special power lines.

Sec. 58-14.2 - Area regulations.

There are no area regulations in the I-1 district.

Sec. 58-14.3 - Setback and yard regulations.

- (a) Front. Structures in the I-1 district may be located to within ten feet of any street right-of-way.
- (b) Side. Side yards shall have the same regulations as front yards when abutting a street right-of-way. There are no side yard regulations when abutting adjoining similar uses. There shall be a side yard of 25 feet or more when abutting a residential district.
- (c) Rear. Rear yards shall have the same regulations as side yards.
- (d) Fences. Fences shall not exceed seven feet in height and shall not be less than three feet in height.

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(e) Screening and buffer yards. Section 58-17.11 shall apply in the I-1 district.

Sec. 58-14.4 - Height regulations.

Buildings in the I-1 district may be erected up to a height of 50 feet. Chimneys, flues, cooling towers, flagpoles, or their accessory facilities not normally occupied by workers are excluded from this limitation. Parapet walls may be permitted per the building code above the height of the building on which the walls rest.

Sec. 58-14.5 - Coverage regulations.

Maximum lot coverage in the I-1 district shall not exceed 85 percent.

ARTICLE XV. - CONSERVATION DISTRICT C-1

Sec. 58-15.1 - Intent.

The primary purpose of the conservation district C-1 is to limit development in areas of poor soil, steep slope and proneness of flooding.

Sec. 58-15.2 - Add Regulations for the height, area, coverage, etc, FLOODPLAIN

Commented [58]: Emily

ARTICLE XVI. - OLD AND HISTORIC HAYMARKET DISTRICT OVERLAY

Sec. 58-16.1 - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- 'Board' means the Architectural Review Board, abbreviated 'ARB'.
- 'Altered' means any readily apparent change, including paint.
- 'Resource' is a building, structure, object, site, district (or contributor to a district) as identified in National Register Bulletin 15.
- 'Historic Resource' is any resource that is:
 - a. Listed individually in the National register of historic Places or the Virginia Landmarks Register or preliminarily determined eligible for individual listing in the National Register of Historic places or in the Virginia Landmarks Register; or
 - b. A designated historic district listed in the National Register of Historic Place or in the Virginia Landmarks Register or preliminarily determined by the US Secretary of the Interior or the Virginia Department of HHistoric Resources as eligible for listing the National Register of Historic Places or in the Virginia Landmarks Register as a historic district, as well as the individual resources determined to contribute to such a district; or
 - c. A local landmark, as designated by the Town of Haymarket town council upon a determination that the resource was built prior to 1950, and meets the evaluation and designation criteria contained in National Register Bulletin 15. Such local landmarks may be either an individual resource or a district.

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Sec. 58-16.2 - Purpose and Intent.

The Town of Haymarket seeks to identify, preserve, and enhance landmarks, buildings, structures, and neighborhoods with historical, cultural, and architectural significance to the Town. The historic overlay is

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intended to implement these goals and ensure that new development is in keeping with the character of Haymarket. The overlay intends to encourage a compatible aesthetic treatment along the entrances to town, promote tourism and visitor opportunities, provide an attractive entry into town, and promote and advance the health, welfare and safety of town residents and visitors.

Sec. 58-16.3 - Creation; boundaries.

- (a) In order to preserve the unique culture of the Town, there is hereby established an overlay district to be known as the "Historic Haymarket Overlay" which shall include properties that front Washington Street, and those streets that contain existing historic properties, to include portions of Jefferson Street, Fayette Street, and Madison Street.
- (b) Prior to any expansion or contraction of the historic district the Town shall identify and inventory all structures being considered for inclusion in such a district and shall establish written criteria to be used in making such determination. The Town shall identify all landmarks and designate by ordinance any resource, as part of a local historic district, subsequent to soliciting public input in a manner consistent with Code of Virginia, § 15.2-2204. The owners of such property proposed for designation shall be given written notice of the public hearing on the ordinance.
- (c) The town may annually consider updates to the boundaries of the Historic Haymarket Overlay so that it is expanded to include newly identified historic resources, and/or contracted to reflect the removal or demolition of historic resources.
- (d) In order to promote the general welfare, through the preservation and protection of historic places and areas of historic interest, all buildings within the Historic Haymarket Overlay which were built prior to 1950 are designated historic resources. No historic building may be demolished, in whole or in part, nor may any architectural features of such buildings which are subject to public view from a public street be altered without prior application to the Architectural Review Board, unless the building official consistent with the Uniform Statewide Building Code, determines that it constitutes such a hazard that it shall be razed, demolished or moved.

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Sec. 58-16.4 - Certificate of appropriateness required in the Historic Haymarket Overlay

- (a) Application for a certificate of appropriateness shall be made to the Architectural Review Board. Any decision of the Architectural Review Board shall be appealable by any member of the Town Council after consultation with the Board, or any aggrieved person to the Town Council.
- (b) No building, structure or sign shall be erected, reconstructed, altered or restored within the Historic Haymarket Overlay, unless and until a complete application for a certificate of appropriateness shall have been approved by the Board or, on appeal, by the Town Council. Review of such applications by the Board will include analysis of external architectural features which are subject to public view from a public street, way or place, in light of their architectural compatibility with the historic buildings in the district.

(a)(c)

(b)(d)

- (c)(e) The zoning administrator shall determine whether a change is readily apparent, subject to appeal. The zoning administrator shall determine whether a change is readily apparent, subject to appeal to the Board of zZoning Appeals.

Sec. 58-16.5 - Architectural review board; creation, membership.

- (a) For the purpose of making effective the provisions of this article, an Architectural Review Board (ARB) is established. The Board shall consist of up to seven members, but not fewer than five, appointed by the Town Council, and shall be legal residents of the Town. ne Board member will be appointed from the Town Council and one from the Planning Commission. ne Board member will be appointed from the Town Council and one from the Planning Commission. Members should have a demonstrated interest, competence, or knowledge of historic preservation.
- (b) The term of office of the members shall be for three years, except that the term of the Council member and Planning Commission member shall correspond to their official tenure of office. Members may be removed from office by Town Council at will and without notice. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves.

Sec. 58-16.6 - Chairman, vice-chairman and secretary of the board.

The Architectural Review Board shall elect its chairman and vice-chairman from its membership, and the Town Clerk shall be its secretary.

Sec. 58-16.7- Rules

1. The ARB shall meet for a regular session at least once a month.
2. The Architectural Review Board shall adopt and maintain bylaws governing the procedure for meeting dates and other rules set forth by this article. The bylaws may be reviewed annually for updates.
3. Special meetings may be called in accordance with the ARB procedures as adopted and amended.
- 1.4. A quorum shall be no less than a majority of sitting members.
- 2.5. All meetings shall be open to the public unless the ARB enters closed session as permitted by the Virginia Freedom of Information Act.

Sec. 58-16.8 - Matters to be considered by the Board

1. The board shall not consider interior arrangement, relative size of the building or structure, detailed design or features not subject to any public view, and shall not make any requirements regarding such matters. After receiving a certificate of appropriateness, the zoning administrator shall determine whether this provision applies.

2. The board shall consider the following in passing upon the appropriateness of architectural features:

- (1) Exterior architectural features, including all signs, which are subject to public view from a public street, way or place.
- (2) General design arrangement.
- (3) Texture, material and color.
- (4) The relation of the factors, subsections (1), (2), and (3) of this section, to similar features of the buildings and structures in the immediate surroundings.
- (5) The extent to which the building or structure would be harmonious with or obviously incongruous with the old and historic aspect of the surroundings.
- (6) In the case of a building to be razed, a primary consideration will be the extent to which its continued existence would tend to protect irreplaceable historic places and preserve the general historic atmosphere of the Town.
- (7) The extent to which the building or structure will promote the general welfare of the Town, and all citizens, by the preservation and protection of historic places and areas.
- (8) The extent to which the building or structure will promote the general welfare by:
 - a. Maintaining and increasing real estate value;
 - b. Generating business;
 - c.
 - d. Attracting tourists and visitors;
 - e. Encouraging study of and interest in American history, architecture, and design;
 - f.
 - g.—

Sec. 58-16.9 - Issuance of certificate of appropriateness.

Decisions of the Board will be incorporated in approved certificates of appropriateness or written reasons for disapproval. Immediately upon approval by the Board of any application to erect, reconstruct, alter, restore or raze a building, a certificate of appropriateness, signed by the chairman of the Board and bearing the date of issuance, shall be made available to the applicant. The zoning administrator shall refuse to honor any request for a building permit without such certificate of appropriateness, but a certificate of appropriateness will in no way affect the requirement to comply with the other provisions necessary to obtain a building permit.

Sec. 58-16.10 - Right of appeal.

- (a) Whenever the board shall approve or disapprove an application for a certificate of appropriateness or fail to take action within 45 days of its filing, any aggrieved party shall have the right to appeal and be heard before the Town Council provided such person files with the Town Clerk on or before seven days after the decision of the board a written notice of appeal. Upon receipt of such notice, the Town Clerk shall place such appeal on the agenda for the next regular meeting of the Town Council.
- (b) Any party may appeal the decision of the Town Council to the circuit court pursuant to this section.
 - (1) A party is any applicant or any person who owns property adjacent to the property which the application concerns. For the purposes of this section, the term "adjacent" includes any property separated from the applicant's property only by a road and which would be adjacent if the road were not present.
 - (2) Appeal shall be by petition at law setting forth the alleged illegality of the action of the Town Council.
 - (3) The appellant must file the appeal with the circuit court of the county within 30 days of the Town Council's decision.

- (c) In addition to the right of appeal, the owner of an historic landmark, building or structure shall have a right to raze or demolish such landmark, building or structure provided he has complied with the provisions of the second paragraph of Code of Virginia, § 15.2-2306(A)(3), as amended.

Sec. 58-16.11 - Deterioration by neglect.

- (a) No owner of an officially designated historic building within the historic district shall allow it to deteriorate to the point where it is not economically feasible to repair or restore it. Specifically, no owner may permit:
- (1) Deterioration of the exterior of a historic building to the extent that it creates or permits a hazardous or unsafe condition;
 - (2) Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, brick, plaster or mortar, of a historic building to the extent that it adversely affects the character of the historic district or could reasonably lead to irreversible damage to the structure. In determining whether deterioration adversely affects the character of the historic district, the zoning administrator shall be guided by the comprehensive plan and, if adopted, the strategic plan and capital improvements budget.
- (b) If a building inspector determines that a historic structure is violating the Property Maintenance Code, he shall so notify the owner, the zoning administrator, and the chairman of the Architectural Review Board of this conclusion, stating the reason for such determination, and shall give the owner 30 days from the date of the notice in which to commence work rectifying the specifics, or to initiate a request to demolish, move or relocate such structure. If appropriate action is not timely taken, the Town Building Inspector shall initiate appropriate legal action.

Sec. 58-16.12 - Demolition review and approval

1. No historic resource, as defined in this article within the Historic Haymarket Overlay shall be demolished or moved, in whole or in part, until the demolition or moving thereof is approved by the Architectural Review Board, or, on appeal by the town council after consultation with the ARB.

2. In addition to the right of appeal set forth herein, the owner of a historic resource, the demolition or moving of which is subject to the provisions of this section, shall, as a matter of right, be entitled to demolish or move such historic resource provided that:

- a. The owner or applicant has applied to the town council for such right,
- b. the owner has for the period of time set forth in the schedule contained in Section 15.2-2306 of the Virginia code and at a price reasonably related to its fair market value, made a bona fide offer to sell the historic resource, and the land pertaining thereto, to the town or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the historic resource and the land pertaining thereto, and,
- c. No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such historic resource, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule specified in the Virginia Code. Any appeal which may be taken to the court for the decision of the town council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the town council, but thereafter the owner may renew his request to the town council to approve the demolition or moving of the historic resource.

3. Demolition Approval Criteria Considerations. In reviewing applications for the demolition or moving of a historic resource from or within the Historic Haymarket Overlay, the Architectural Review Board shall consider the following:

- a. How the demolition or removal of a historic resource from the property on which it is located will impact the historic integrity of the site and any remaining on-site historic resources on the same property based

- on the integrity considerations in National Register Bulletin 15:
- b. How the loss of the historic resource will impact the historic integrity of any adjacent historic property based on the integrity considerations contained in National Register Bulletin 15:
- c. The impact the loss of the historic resource will have on the overall integrity to any historic district the historic resource is located in based on the historic integrity considerations contained in National Register Bulletin 15:
- d. The ability of the historic resource to be adaptively reused as part of a new on-site development which would not adversely impact the historic resource's ability to convey its historic significance through its integrity of location, setting, feeling, association, design, materials and workmanship, as described in National Register Bulletin 15: and
- (b)e. Whether any monies or assistance for preservation of the historic resource could be made available to the property owner within 180 days of the owner's request to demolish or move it.

ARTICLE XVII. - SIGNS

Sec. 58-17.1 - Findings, purpose and intent; interpretation.

- (a) Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, color, illumination, movement, materials, location, height and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment upon historic areas, and the safety and welfare of pedestrians and wheeled traffic, while providing convenience to citizens and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech and in a manner consistent with the Town's Comprehensive Plan. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this article, which can be given effect without the invalid provision.
- (b) Signs not expressly permitted as being allowed by right or by special use permit under this article, by specific requirements in another portion of this chapter, or otherwise expressly allowed by the Town Council are forbidden.
- (c) A sign placed on land or on a building for the purpose of identification, protection or directing persons to a use conducted therein shall be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this article is to establish limitations on signs in order to ensure they are appropriate to the land, building or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified in subsection (a) of this section.
- (d) These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.
- (e) These regulations distinguish between portions of the Town designed for primarily vehicular access and portions of the Town designed for primarily pedestrian access.
- (f) These regulations do not regulate every form and instance of visual speech that may be displayed anywhere within the jurisdictional limits of the Town. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above.
- (g) These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms

caused by signs.

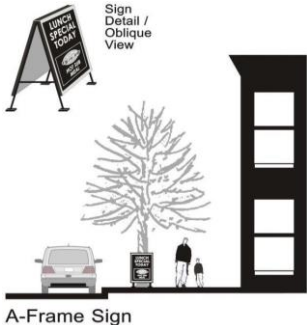
Sec. 58-17.2 - Definitions

Sign
Any display of any letters, words, numerals, figures, devices, emblems, pictures, or any parts or combinations, by any means whereby they are made visible for the purpose of making anything known, where such display is made on, attached to, or as part of a structure, surface, or any other thing, including but not limited to the ground, any rock, tree or other natural object, which display is visible beyond the boundaries of the parcel of land on which it is made. A display of less than one square foot in area is excluded from this definition. (Illustrations below are for example only and do not show dimensional standards).

A-Frame sign

A temporary, portable sign used at a place of business to provide information. The sign may have one or two sides and may contain changeable letters. This type of sign is also commonly referred to as a 'sandwich board sign'.

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A-Frame Sign

Animated sign

A sign which changes physical position or involves the use of motion, rotation, or the appearance of motion. For the purpose of this chapter, flags are not deemed animated signs.

Awning sign.

See canopy sign.



Canopy/Awning Sign



Canopy/Awning Sign

Banner sign

A temporary sign made of cloth, paper, vinyl, or like material attached to a wall so as to remain in a generally stationary position.

Bench sign

A sign painted, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public place or roadway.

Billboard sign

See off-premises sign

Canopy sign

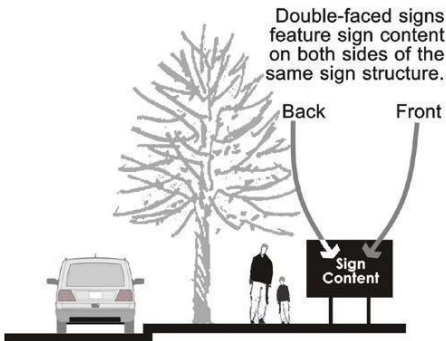
A sign placed directly on, printed on, or attached to the surface of an awning or canopy.

Changeable copy sign

A sign or part of a sign that is designed so that characters, letters, or illustrations can be mechanically or physically changed or rearranged without altering the face or surface of the sign.

Double-faced sign

A sign with two parallel or nearly parallel faces, back to back, upon which advertising is displayed.



Double-Faced Sign

Directional Signs.

Any signage installed on the premises of a facility in order to facilitate the flow of customer traffic. xx

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Electronic message board

Any sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

Flags

Cloth or similar flexible fabric attached to a pole at one end such that the material can bend or flutter from the point (s) of attachment.



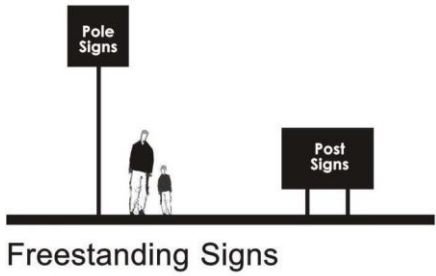
Flag Sign

Flashing sign

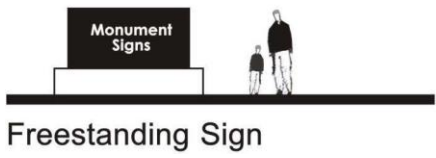
Any illuminated sign on which there is artificial light which is not stationary or constant in intensity or color at all times when such a sign is in use.

Freestanding sign

Sign supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structure; non-portable.



Freestanding Signs



Freestanding Sign

Government sign

Government signs that are approved by the Town Council or installed for the public benefit by the Town of Haymarket.

Hanging sign

See projecting sign.

Illuminated sign

A sign illuminated in any manner by an artificial light source, whether internally or externally lit. Externally illuminated signs are those that have a light source projecting onto the face of the sign either by downlighting or indirectly with fluorescent, halogen, or a source that gives off natural white light. Internally illuminated signs are those that have a light source inside or behind the sign structure or sign face which projects lights through or from the sign face.

Channel Letter Sign

A sign made up of letters only, lit or unlit, that are attached directly to the building. Also referred to as 'individual letter sign'.



Individual Letter Sign

Inflatable sign

Any display capable of being expanded by air, air pumps, or other gas to advertise a product or event. This includes 'inflatable air men' or 'wacky air dancers'.

Minor sign

A small, adjunct sign for specific functional purposes. Examples include trespassing signs, security warning signs, on-site directional signs, and the like.

Monument Sign

A sign affixed to a structure built on grade in which the sign and the structure are an integral part of one another; not a pole sign. For the purpose of this chapter, monument signs shall be deemed freestanding signs.

Moving or Rotating sign

A sign or other display with mechanical motion powered by natural, manual, mechanical, electrical, or other means, including but not limited to pennant strings, streamers, spinners, propellers, and searchlights. Hand held signs are not included.

Neon sign

A sign that uses light-emitting gas to convey a message in a form such as letters, numbers, and figures.

Off-premises sign

A sign which directs attention to a business, commodity, service, or establishment that is conducted, sold, or offered at a location other than the premises on which the sign is erected

Painted sign

Any sign painted on the exterior surface of a building; includes a mural sign.

Feather Sign

A lightweight, portable sign mounted along one edge on a single, vertical, flexible pole which may resemble a sail, bow, or teardrop.

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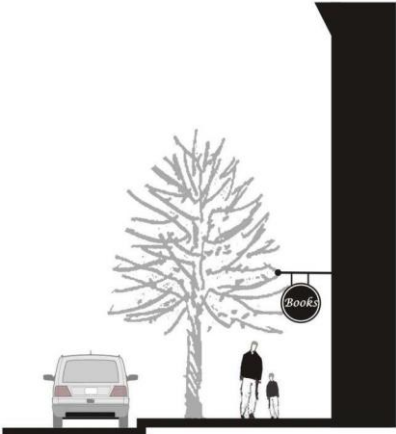
Portable sign

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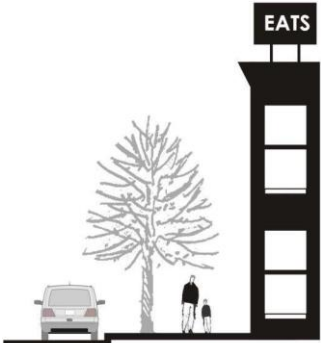
shall mean a sign not permanently affixed to a building, a structure, a vehicle, or the ground. For the purpose of this Chapter, A-frame signs shall be deemed portable signs. This includes but is not limited to balloons and person-held signs.

Projecting sign
A sign attached to a building, approximately perpendicular to the building wall.



Projecting/Hanging Sign

Roof sign
Any sign erected, constructed, and maintained wholly upon or over the roof of any building (not permitted by this ordinance).



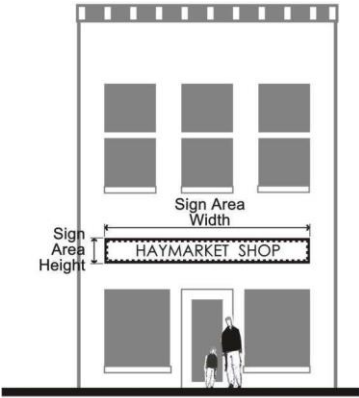
Roof Sign (Not Permitted)

Sign area.
The entire face of a sign, including the advertising surface and any framing, trim, or molding, but not including the supporting structure. Sign area is calculated by standard mathematical formulas such as height times width for rectilinear signs, πr^2 for circular signs, and the applicable standard mathematical formula for other

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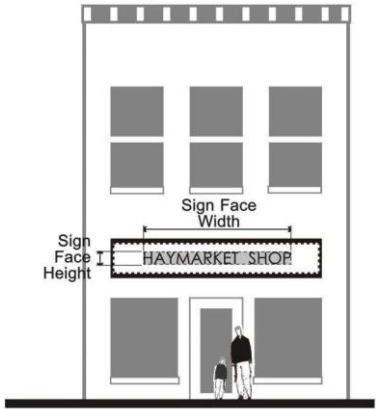
geometrical shapes.

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Sign Area
 For area calculation, see definition in ordinance.

Sign face
 The area or display surface used for the message, not including any framing, trim or molding, or the support structure. Face area is calculated using the same mathematical formulas as for sign areas.



Sign Face
 For area calculation, see definition in ordinance.

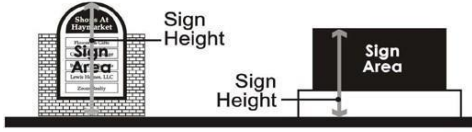
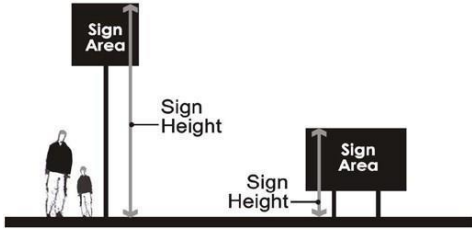
Sign height.
 Distance measured in feet and inches from the ground below the sign to the highest point of sign to include sign structure, or in the case of wall signs on upper floors, from the floor level immediately below the sign to the highest point of the sign. Artificially increasing the height of the sign by berming or mounding dirt or other material at the sign base is prohibited.

Sign structure.
 Sign structure includes the supports, uprights, bracing, and framework of any structure, be it single-faced,

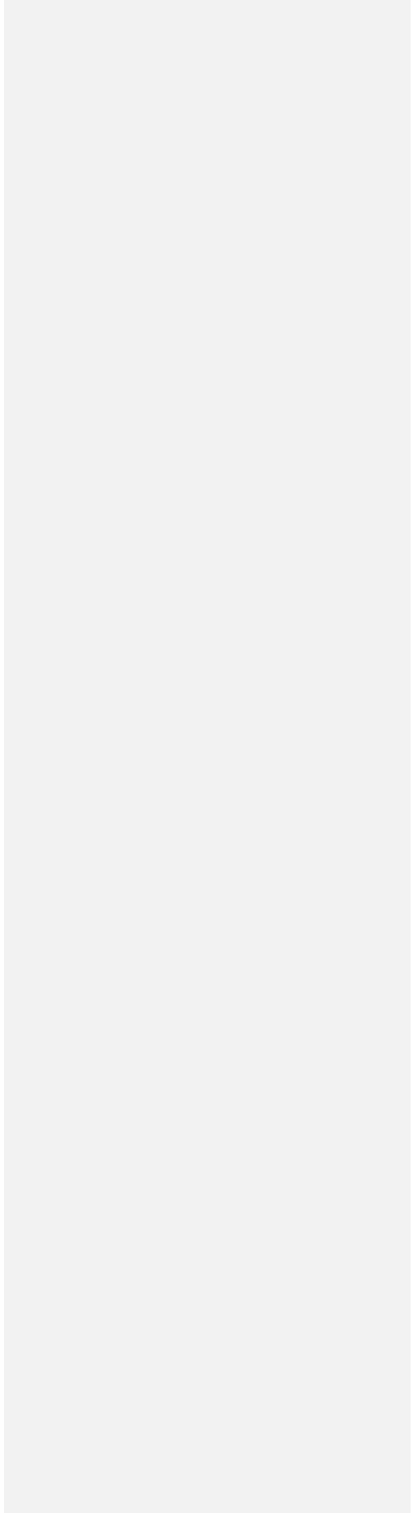
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double-faced, V-type, or otherwise exhibiting sign.

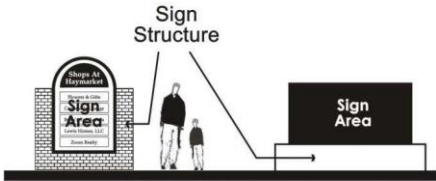
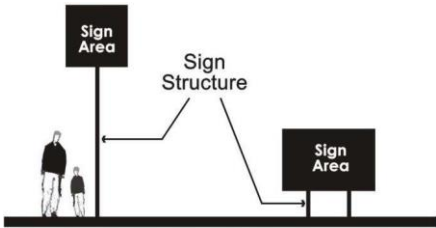
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Sign Height



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Sign Structure

Temporary sign.

A sign designed or intended ~~based on materials and structural components, to be~~ to be displayed for a specified or limited period of time not to exceed 45 days unless an extension is granted by the zoning administrator. ~~regardless of type or style of sign.~~ Examples include real estate signs, contractor's signs, and one-time event signs.

~~Vehicle sign. A sign on a truck, bus, or other vehicle, while in use in the normal course of business. Refer to Sec. 58-14.4 for limitations on vehicle signs.~~

Vehicle sign, ~~parked.~~

A sign placed, affixed, ~~or painted,~~ or digitally displayed on a motor vehicle ~~or trailer~~ parked or while in use in the normal course of business with the primary purpose of providing advertisement of a business, product, service or activity, not otherwise allowed by this article. Refer to Sec. 58-14.4 for limitations on vehicle signs.

Wall sign.

Any signs or lettering, projecting not more than eight inches, which are placed against or attached to the front, rear, or side wall of a building, but shall not include painted or mural signs, or roof signs as defined herein.

Wayfinding Signs

A sign on the premises of a development with multiple tenants that allows customers to find their way. For the purpose of this chapter, wayfinding signs may be deemed as freestanding signs.

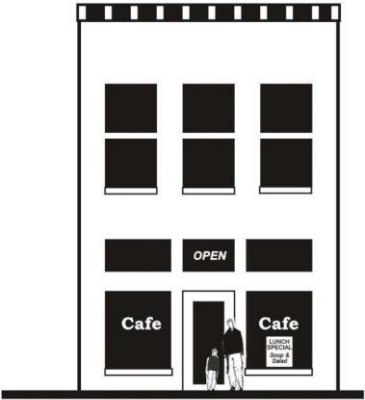
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Window sign.

A sign painted, stenciled, or affixed on a window.

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Window Sign

Sec. 58-17.3 - Applicability.

The provisions of this article shall apply to all property within the corporate limits of the town.

Sec. 58-17.4 - Permit Required.

Except when otherwise exempted by this article, no sign shall be erected, constructed, posted, painted, altered, or relocated, unless and until a zoning permit has been issued by the zoning administrator and where provided for in this article, subsequent to an approval of a certificate of appropriateness by the architectural review board (ARB).

Sec. 58-17.5 - Exemptions.

Sign permits shall not be required for the following signs in any sign district; however, all applicable regulations of this chapter shall apply.

- (a) Signs erected by a governmental body or required by law, including official traffic signs or sign structures, provisional warning signs or sign structures, and temporary signs indicating danger.
- (b) Minor Signs not exceeding three (3) total signs per separate road frontage per lot, and not less than 30 feet apart.
- (c) Change of message or content of an approved Sign.
- (c)(d) Notice must be given to the zoning administrator 30 days in advance of installation.
- (d)(e) Flags, provided, however, that no single flag shall exceed twenty-four (24) square feet in area and no single lot shall display more than three flags.

Sec. 58-17.6 - Prohibited signs.

The following signs are prohibited:

- (a) Flashing Signs or signs lighted in a varying degree including strobe lights.
-
-
- (b) Moving or Rotating Signs.

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- (c)
- (d) Off-premises signs (except in the I-1 zoning district).
- (e) Inflatable signs.
- (f) Signs located anywhere on the roof.
- (g) Signs located on the wall of a building that extend above the roofline or wall, or extend into a front, side or rear yard setback.
- (h) Signs illuminated with sodium halide lights; and any illuminated sign that emits lighting levels in excess of the limitation.
- (i) Electronic message boards.
- (j) Abandoned sign structures.
- (k)
- (l) Signs, including posters and handbills affixed to any structures, trees or other natural vegetation, rocks or poles.
- (m) Any sign that may be confused with or obstruct the view of any authorized traffic sign or signal, or obstruct the sight-distance triangle at any road intersection, or extend into the public right-of-way or otherwise create a distraction for drivers.
- (n) Signs that prevent free ingress or egress from any door, window, fire escape, or that prevent free access from one part of a roof to any other part or otherwise adversely affect safety or are in violation of any building code or other applicable law.
- (o) Signs that emit smoke, visible vapors, particles, normally detectable sound or odor shall not be permitted, including open flames used to attract public attention.
- (p) Mirrors or mirror devices on, in, or as part of a sign.
- (q) Feather Signs

Sec. 58-17.7 - General requirements for all permitted and temporary signs.

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- (a) Sign area computations.
 - (1) The surface area of any sign permitted under this article is determined by measuring the entire face of the sign including any wall work incidental to its decoration, but excluding support elements whose sole purpose and function is to support the sign, except as noted below:
 - i. The surface area of any sign only made up only of individual letters or figures shall include the space between such letters or figures.
 - ii. Whenever one sign contains information on both sides, only one side only shall be used in computing the surface area of the sign.

(b) Placement of signs

Signs shall be placed so they do not obstruct vehicles, pedestrians, or the signs of adjacent businesses and so that they follow architectural review board placement guidelines. Unless otherwise provided for in this chapter, permanent signs shall be located:

- i. At least ten (10) feet from any lot line within the Gateway Sign Area, or no closer than the building façade is to the lot line, whichever is less.
- ii. At least five (5) feet to any lot line within the Core Sign Area, or no closer than the building façade is to the lot line, whichever is less.
- iii. At least ten (10) feet to any lot line within the Residential Sign Area, or no closer than the building façade is to the lot line, whichever is less.

(c) Materials, colors, and styles

All materials, colors, and styles of permanent signs are subject to approval by the architectural review board in accordance with the Historic District Design Guidelines adopted by the Town Council, as amended.

(d) Lighting.

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No sign, temporary or permanent, shall be permitted to have an illumination spread of more than a 0.05 foot candle at the lot line, shine into on-coming traffic, affect highway safety, or shine directly into a residential dwelling unit. Permanent internally illuminated signs are permitted for wall, freestanding, and channel letter signs (as defined in section 58XXXXX) in the Gateway Zone as marked on the Sign Zoning Map. All internally illuminated signs shall comply with this item (58-15.9(d)).

(e) Substitution.

Wherever this Article permits a sign with commercial content, non-commercial content is also permitted subject to the same requirements of size, color, illumination, movement, materials, location, height and construction.

Sec. 58-17.8 - Temporary signs

Temporary signs may be erected or constructed without a permit in all zoning districts; however, all applicable code requirements in this chapter shall apply.

- (a) ~~Temporary Signs-~~ Gateway District. Notice shall be given to the zoning administrator not more than 48 hours after signs have been erected. These signs shall be either freestanding signs, wall signs, window signs, portable signs, banner signs, or A-frame signs, and may be displayed for up to 45 calendar days. The zoning administrator may extend the time limit by up to 45 calendar days upon application by the owner at the end of the initial 45-day period, if the applicant shows that the sign is maintained in sound condition and the purpose for it still pertains. Temporary signs shall not be internally illuminated.
1. Temporary freestanding signs, wall signs, portable signs, and banner signs: shall not exceed one sign per location, nor eight (8) square feet in area and six (6) feet in height.
 2. Temporary window signs: shall not obstruct more than twenty (20) percent of the area of the window on which the sign is located.
 3. A-frame signs: must not be more than an aggregate of twelve (12) square feet or less, and not exceed 5 feet in height in a sandwich board design as defined herein. The sign may only be displayed during business hours. The placement of the sign shall not impede pedestrian, wheelchair, or vehicular traffic flow. Only one such sign is permitted per business, or one sign per thirty (30) linear feet of sidewalk, whichever is more restrictive.
- (b) Temporary Signs- Residential District. These signs shall be either freestanding signs, wall signs, window signs or banner signs.
1. Freestanding and Wall signs: shall not exceed sixteen (16) square feet in area per property. No sign shall exceed six (6) feet in height. This includes signs on property for rent or for sale.
 2. Window signs: shall not obstruct more than twenty (20) percent of the total area of all windows on each building façade on the property.
- (c) Temporary Signs- Core District. These signs shall be either Freestanding Signs, Wall Signs, Window Signs or Banner Signs, subject to the same standards and limitations as temporary signs for the Gateway district (Sec. 58-15.6(a)).
- (d) Temporary Signs required to be posted by law. Any such sign shall be removed the day after the last day for which it is required to be displayed. The administrator may require proof of legal requirement for the posting of the sign. These signs are permitted in all zoning districts.

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Sec. 58-17.9 - Process for permitting.

- (a) Permit required. Except when otherwise exempted by this article, no sign shall be erected, constructed, posted, painted, altered, or relocated, unless and until a zoning permit has been issued by the zoning administrator and where provided for in this article, subsequent to an approval of a certificate of appropriateness by the architectural review board (ARB).
- (b) Permit process. Before any zoning permit is issued, the applicant shall submit to the administrator a sign permit application and an application for certificate of appropriateness when applicable provided by the administrator, together with drawings and/or specifications as may be necessary to fully advise and acquaint the administrator with the location, construction, materials, manner of illuminating and/or securing or fastening, and number of signs applied for, and the style of the wording of the sign or advertisement to be carried on the sign.
- (c) Approval of permit. For signs not requiring architectural review, the zoning administrator shall act on the permit application within 14 days of acceptance of the application. For signs requiring action by the architectural review board, the board shall act on the application within sixty (60) days after acceptance of the application by the zoning administrator, in accordance with this chapter, and the Historic District Design Guidelines adopted by the Town Council, as amended, unless such timeline is extended by the applicant in writing. The zoning administrator shall issue a zoning permit within three (3) business days following approval by the ARB.
- (d) Building codes; inspections. Structural and safety features and electrical systems shall be in accordance with the requirements of the Uniform Statewide Building Code and Town ordinances.
- (e) General permit application requirements. Submission requirements for architectural review board sign guidelines as set forth in the Historic District Design Guidelines adopted by the Town Council, as amended, shall be followed for selecting the type of sign, location, colors, lettering style, materials and type of illumination (if applicable). Sign permit application(s) also require:
 - (i) An application for a certificate of appropriateness, as applicable.
 - (ii) A plat showing location of existing and proposed sign(s) on building façade(s) or grounds and exterior dimensions of buildings subject to the sign permit.
 - (iii) Scaled drawings showing dimensions, scale, and elevation of proposed sign(s) to include specific materials, hardware, and methods of mounting and illumination.
- (f) All signs shall be erected within one year from the date of approval of the sign permit; otherwise, the permit shall become null and void and a new permit shall be required. The zoning administrator may grant one extension of the permit for a period of six (6) months, but in no case shall a permit be valid for more than a total of eighteen (18) months. Extensions may be granted only when the proposed sign is in compliance with all current applicable regulations.

Sec. 58-17.10 - Enforcement.

Violations of this Article constitute violations of the zoning code and the Town may obtain compliance through any of the methods available for other zoning violations. In addition, a nonconforming sign structure shall be removed if the use to which it is accessory has not been in operation for a period of two years or more. Such structure signs shall be removed by the owner or lessee of the property. If the owner or lessee fails to remove the sign structure, the zoning administrator or designee shall give the owner fifteen (15) days' written notice to remove it. Upon failure to comply with this notice, the zoning administrator or designee may enter the property upon which the sign is located and remove any such sign or may initiate such action as may be necessary to gain compliance with this provision. The cost of such removal shall be chargeable to the owner of the property.

Sec. 58-17.11 - Structural and maintenance requirements.

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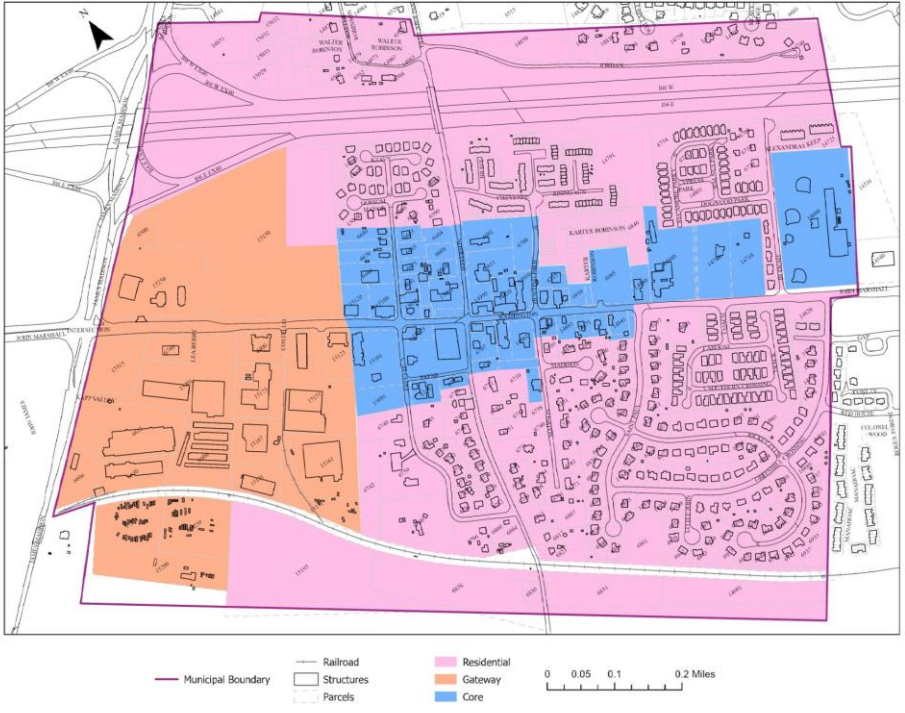
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All signs shall be maintained in good condition and remain structurally safe. Any sign that has deteriorated to a state of peeling, cracking, splitting, fading or rusting, is in violation of this ordinance and subject to enforcement.

Sec. 58-17.13 - Sign Area Map

Attachment: 8.04 ZTA Updates_Strikethroughs (5156 : ZTA - Final Draft)

2021 Proposed Sign Zoning Map



Sec. 58-17.14 - Permanent sign standards - type, number, area, and height of signs.

1. Gateway

Maximum Sign Specifics: Gateway			
Sign Type	Number	Area	Height
<i>Wall</i>	1 per business per road frontage	Front: 25 sq. ft.	15 ft above floor level
		rear/side: 36 sq. ft	No limit
<i>Freestanding</i>	1 per road front; 2 per lot	24 sq. ft.; 36 sq. ft. total	10 feet
<i>Channel Letter</i>	1 per business per road frontage	Letter height: 2.5 ft Total area: 25 sq. ft.	15 ft. above floor level
<i>Projecting</i>	1 per business	10 sq. ft	Not less than 9 ft. from the bottom edge of the sign.
<i>Directional</i>	2 per business	4 sq. ft.	4 ft.
<i>Window</i>	-	Lesser of: 20% of window area or 6 sq. ft.	-
<i>Painted</i>	1 on side or rear wall	Not to exceed 15% of that wall area	15 ft above floor level
<i>Awning</i>		letters not higher than 12 inches	

Wall signs: shall be mounted flat on the building facade. Sign shall not extend more than 6 inches from the surface of the building.

Projecting: Shall be mounted perpendicular to principal building facade; shall project no greater than four (4) feet from building and no closer than one foot to the street curb.

Window: includes neon signs subject to size limitations contained in this Article.

Channel: Permanent channel letter signs in this district may be internally illuminated pursuant to section 88-15.9(d)).

Attachment: 8.04 ZTA Updates_Strikethroughs (5156 : ZTA - Final Draft)

2. Core

Maximum Sign Specifics: Core			
Sign Type	Number	Area	Height
<i>Wall</i>	1 per business per road frontage	12 sq ft	15 ft. above floor level
<i>Freestanding</i>	1 per road frontage; 2 maximum per lot	18 per sign; 24 total	8 feet
<i>Channel Letter</i>	1 per business per road frontage	1.5 ft letter height. 18 sq ft total area	15 ft above floor level
<i>Projecting</i>	1 per business	9 sq ft	No less than 9 ft from the bottom edge
<i>Directional</i>	1 per business	4 sq ft	4 ft
<i>Window</i>	-	Lesser of: 20% of window area or 6 sq ft.	-
<i>Awning</i>		Letters not higher than 12 inches	

Wall signs: shall be mounted flat on the building facade. Sign shall not extend more than 6 inches from the surface of the building.

Projecting: Shall be mounted perpendicular to principal building facade; shall project no greater than four (4) feet from building and no closer than one foot to the street curb.

Window: includes neon signs subject to size limitations contained in this Article.

Channel letter: Permanent channel letter signs in this district shall not be internally illuminated.

3. Residential

Maximum Sign Specifics: Residential Includes businesses located in a residential area			
	Number	Area	Height
<i>Freestanding</i>	1 per lot	6 sq ft	No higher than 4 ft from existing grade
<i>Wall</i>	1 per lot	6 sq ft.	n/a

This chart includes subdivisions and other types of residential projects built as a unified development. *Wall signs*: shall be mounted flat on the building facade. Sign shall not extend more than 6 inches from the surface of the building.

ARTICLE XVIII. - NONCONFORMING USES

Sec. 58-18.1. - Purpose.

The purpose of this section is to regulate nonconforming uses, lots and structures in a manner consistent with sound planning and zoning principles. The general intent is that over time nonconforming uses, lots and structures will be discontinued in favor of uses, lots and structures conforming to this chapter and the zoning map. However, it is also recognized that nonconforming uses, lots and structures need not be entirely static, and that under certain circumstances, nonconforming uses, lots and structures may change, according to law and the provisions of this chapter.

Sec. 58-18.2. - "Nonconforming use," "lot" and "structure" defined.

- 1.Nonconforming use: Any use that was lawful on the date of enactment of this chapter, or amendment thereto, which has been continued although otherwise rendered unlawful by such enactment or amendment. Any use that was unlawful on the date of enactment of this chapter, or amendment thereto, shall remain unlawful and shall not be a "nonconforming use".
- 2.Nonconforming lot: Any lot that was lawful on the date of enactment of this chapter, or amendment thereto, which has been continued in existence although otherwise rendered unlawful by such enactment or amendment thereto, or as a result of public action. Any lot that was unlawful on the date of enactment of this chapter, or

Commented [68]: Martin suggestion: deleting entire Article and using Manassas Code to repl

Commented [69R68]: 8.5 update: bob- new n section. replaced martin's suggestion.

amendment thereto, shall remain unlawful and shall not be a "nonconforming lot". A lot is nonconforming if one or more of the following standards are not met as a result of enactment or amendment of this chapter:

Lot area.
Lot width.
Lot frontage.

3.Nonconforming structure: Any structure, except signs, that was lawful on the date of enactment of this chapter, or amendment thereto, which has been continued in existence although otherwise rendered unlawful by such enactment or amendment thereto or as a result of public action. Any structure that was unlawful on the date of enactment of this chapter, or amendment thereto, shall remain unlawful and shall not be a "nonconforming lot". A structure is nonconforming if one or more of the following standards are not met as a result of enactment or amendment of this chapter or by virtue of public action:

Setbacks
Yards
Buffers
Chesapeake Bay
Stormwater management
Open space
Lot coverage
Tree canopy
Height
FAR
SUP

Sec. 58-18.3. - Rights adhere to the land.

The nonconforming status of any nonconforming use, lot or structure shall adhere solely to the use of the land, and not to the owner, tenant, or other holder of any legal title to the property or the right to make use thereof.

Sec. 58-18.4. - Continuation.

1. If on September 19, 1983, any legal activity is being pursued, or any lot or structure is being legally utilized in a manner or for a purpose which does not conform to the provisions of this chapter, such manner of use or purpose may be continued as provided in this article.

2. A nonconforming use, lot or structure may continue as it existed when it became nonconforming. A nonconforming use, lot or structure shall not be changed, altered, repaired, restored, replaced, relocated or expanded in any manner, including the addition of new accessory, ancillary, secondary or incidental uses, except as provided for in sections Sec. 58-18.6, et seq., of this chapter

2. If any change in title of possession or renewal of any such lot or structure occurs, the use existing may be continued.

3. If any nonconforming use (structure or activity) is discontinued for a period exceeding two years after the enactment of this chapter or any amendments to this chapter, it shall lose its nonconforming status, and any further use shall conform to the provisions of this chapter.

4. Temporary seasonal nonconforming uses that have been in continual operation for a period of two years or more prior to the effective date of this chapter are excluded.

5. For the purposes of this section, cessation of a nonconforming use for the aforesaid period shall be conclusively presumed to establish discontinuance.

6. Any nonconforming use which is intentionally abandoned, without regard to the length of time which shall have passed, shall be terminated, and any further use shall conform to this chapter.

7. Operation of only an accessory, ancillary, secondary or incidental use to the principal nonconforming use during the two-year period shall not operate to continue the principal nonconforming use.

8. If a building permit has been issued, the building or structure was thereafter constructed in accordance with

the building permit, and upon completion of construction, a certificate of occupancy or a use permit for the building or structure was issued, or (ii) the owner of the building or structure has paid taxes to the locality for such building or structure for a period in excess of 15 years, the building or structure shall be deemed nonconforming. Notwithstanding the above, the Building Official may require the building or structure to be brought into conformity with the Uniform Statewide Building Code.

Sec. 58-18.5. - Accessory, ancillary, secondary or incidental uses.

- 1.A use that is accessory, ancillary, secondary or incidental to a permitted principal use cannot be made the basis for a nonconforming principal use.
- 2.No use accessory, ancillary, secondary or incidental to a principal nonconforming use shall be continued after nonconforming status is lost, except as may be approved under section 58-18.7 of this chapter.

Sec. 58-18.6. - Permitted changes of nonconforming uses.

A nonconforming use may be changed, altered, repaired, restored, replaced, relocated or expanded only in accordance with the provisions of this section, and subject to the appropriate approvals (including, among others, verification of the nonconforming use, site plan approval, building permit approval and zoning approval otherwise required by law.

- 1.A nonconforming use may change to a conforming use.
- 2.A nonconforming use may change to a more restricted nonconforming use, as set forth in section 58-18.7 of this chapter.
- 3.A nonconforming use may be expanded throughout any part of a structure originally arranged or designed for such activity.
4. A lawful nonconforming structure may remain lawfully nonconforming when any of the development standards associated with the structure is reduced by virtue of public action.
5. A nonconforming structure may be repaired, provided such repair constitutes only routine maintenance necessary to keep the structure in the same general condition it was in when it originally became nonconforming, and subject to applicable Chesapeake Bay regulations.
6. A nonconforming structure damaged by casualty (as distinguished from ordinary wear and tear) may be restored in accordance with the provisions of section 58-18.8 of this chapter.
7. Minor alterations, cosmetic modifications, interior renovations and similar changes for nonconforming structures may be permitted provided that such changes shall not increase the land area occupied by any portion of the nonconforming structure, and shall not increase the gross floor area of any nonconforming structure, unless approved as an expansion pursuant to section 58-18.8.
8. Except for signs, nonconforming structures other than buildings (such as, but not limited to, underground storage tanks, private sewage disposal systems, and parking lots) may be restored or replaced when such structures become unsafe or unsound. A relocation on the same lot may be approved by the Zoning Administrator provided the new location is less nonconforming than the original location, and further provided that the new location shall not cause a greater detrimental impact on conforming uses in the neighborhood. Nonconforming signs may be repaired or replaced in accordance with the provisions of section 58-18.9 of this chapter
9. No structure used as a part of a nonconforming use shall be moved to any other lot unless such lot is properly zoned to permit the use, nor shall such a structure be moved within the lot on which it exists, unless the relocation is specifically provided for in section 58-18.8(5).
- 10.Prior to the approval of expansion of a nonconforming use under this section, nonconforming status shall be verified as set forth in section 58-18.11 of this chapter.

Sec. 58-18.7. - Change of a nonconforming use to a more restricted nonconforming use.

- 1.Nonconforming use may change as a matter of right to a more restricted nonconforming use, upon issuance by the Zoning Administrator of an approval for such a change. The Zoning Administrator's approval, which shall

not be given until the nonconforming status of the use has been verified in accordance with section 58-18.11 of this chapter, shall include a determination in writing that the proposed use is "more restricted" than the existing nonconforming use, and a copy of such determination shall be forwarded to the planning commission and the Haymarket Town Council. If the Zoning Administrator determines the proposed use is not "more restricted" than the existing nonconforming use, the application for a change to a more restricted nonconforming use shall be denied. An appeal from such a determination shall be to the Board of Zoning Appeals.

2. In determining whether a proposed use is a "more restricted" nonconforming use, the following factors, among others, shall be considered:

(a) Whether the proposed use will change the size and scope of the existing use, and the magnitude of such change; and,

(b) Whether the proposed use will increase the intensity of the nonconforming use, including hours of operation, traffic, noise, and similar impacts; and,

(c) Whether the proposed use will have a more or less detrimental effect on conforming uses in the neighborhood; and,

(d) How the quantum effect of the factors evaluated in preceding subsections (a), (b) and (c) above relate to the purpose, policies and objectives of this chapter.

3. Upon the issuance of an approval to change to a more restricted nonconforming use, site plan approval, shall be required.

Editor's note— See note following § 32-601.30, above. Further, portions of this § 32-601.32 contain provisions which have been relocated from former § 32-601.33 entitled "Expansion of Nonconforming Uses, Structures" which derived from Ord. No. 95-54 enacted July 11, 1995, amended pursuant to Ord. No. 99-19 enacted Mar. 16, 1999, and repealed pursuant to Ord. No. 04-78 enacted Dec. 21, 2004.

Sec. 58-18.8. - Restoration of a nonconforming building damaged by casualty.

1. A nonconforming residential or commercial building that is damaged by any casualty may be restored to its condition prior to the casualty, provide such restoration is begun within one year of the date of the casualty and completed within two years of the date of the casualty.

2. Such restoration may include minor alterations, cosmetic modifications, interior renovations or similar changes under the provisions of subsection 58-18.6(6) of this chapter, but such restoration shall not include any expansion unless approved under the provisions of section 58-18.6(6) of this chapter. Such restoration may include changes that make the building less nonconforming than it was prior to the casualty. Restoration to reduce or eliminate the nonconforming features to the extent possible shall not require a granting of a variance.

3. Prior to any restoration permitted by this section, the nonconforming status of the building shall be verified as set forth in section 32-601.60 of this chapter.

4. For all buildings except a one-family dwelling, restoration of a nonconforming building shall require site plan approval chapter.

Sec. 58-18.9. - Nonconforming signs.

Nonconforming signs shall be governed by the regulations set forth in this part, except where such regulations conflict with the following provisions:

1. Nonconforming signs shall not be expanded.

2. Nonconforming signs may be changed to reduce any nonconformity as to the number of signs permitted on a lot, sign height, sign size and sign type.

3. Signs that are nonconforming as to location may be relocated to be less nonconforming, provided such

relocation shall not cause a greater detrimental impact on conforming uses in the neighborhood.

4.The face, message, or copy on a nonconforming sign may be changed, provided such change does not alter the sign type, unless the new sign type would be a conforming sign in all respects.

5.Whenever land is acquired due to the widening, construction, or reconstruction of any highway as defined in Code of Virginia, § 33.1-351 by purchase or by use of the power of eminent domain and upon such land is situated a lawfully nonconforming billboards sign as defined in Code of Virginia, § 33.1-351, such billboard sign may be relocated, if such sign meets all requirements under the provision of Code of Virginia, §§ 33.1-351 and 4.1-113.1 in the case of outdoor alcoholic beverage advertising, but is considered a nonconforming sign; such billboard sign may be relocated by the owner of the billboard sign, at the owner's sole cost and expense, to another location as close as practicable on the same property, adjusting the height or angle of the billboard sign to a height or angle that restores the visibility of the billboard sign to the same or comparable visibility as before the taking, provided the new location also meets all the requirements of Code of Virginia, § 33.1-95.2 and regulations adopted pursuant thereto. The owner of such billboard sign shall not be allowed to increase the size of the sign face, and a relocated billboard shall continue to be nonconforming in its new location. Maintenance of such nonconforming billboard signs shall be governed by the provisions of Code of Virginia, § 33.1-370.2.

6.A sign permit shall be required for any changes.

7.Whenever the provisions of this part require all nonconforming signs on a lot to be made conforming, such provision shall apply instead of the provisions of this section.

Sec. 58-18.10. - Use of nonconforming lots.

1.Any unimproved lot or record, located in any zoning district, that is nonconforming as to the lot area, lot width or lot frontage, or combination thereof, required in the zoning district in which the lot is located may be used for any use permitted by right or with a Special Use Permit in such zoning district, provided all other standards of the zoning district are met.

2.Nonconforming lots may change as follows:

(a)A nonconforming lot may become a conforming lot by meeting the current minimum lot size, lot width, and lot frontage requirements of the zoning district in which the lot is located through one of the following actions:

- i.A boundary adjustment between two contiguous nonconforming lots, or among three or more such nonconforming lots located in the same zoning district.
- ii.A boundary adjustment between two contiguous lots, one being nonconforming and the other being conforming, provided such adjustment does not make the conforming lot nonconforming.
- iii.Subdivision of any nonconforming lot under the provisions of Article XXII of the Town of Haymarket Code (subdivision).
- iv.Rezoning to a different zoning district to meet the development standards of that district.

(b)A lawful nonconforming lot may remain lawfully nonconforming when the lot size, lot width and/or lot frontage are reduced by virtue of public action.

(c)The boundaries of a nonconforming lot(s) may be adjusted along with the boundaries of a contiguous nonconforming or conforming lot(s), provided such adjustment does not result in an additional nonconforming lot being created; does not make the conforming lot(s) nonconforming, does not result in further reduction of lot frontage or lot width to less than that required at the front setback line, of any of the nonconforming lots that existed prior to the boundary adjustment.

(d)When a building or structure to be constructed or expanded is located on more than one nonconforming lot, a boundary adjustment shall be required to consolidate the lots.

(e)When a nonconforming lot is changed as set forth in subsections 2.(a) (i), (ii), (iii), or (c) a plat of subdivision or boundary adjustment shall first be filed and approved in accordance with law. When a nonconforming lot is changed as set forth in subsection 2.(b) and 2.(d), only a deed of subdivision shall be filed and approved in accordance with law.

3. Any improved or unimproved lot meeting the minimum required lot size for the zoning district in which it is located, where a portion of the lot lies within an adjacent jurisdiction and the portion that lies within the Town of Haymarket by itself does not meet the minimum lot size for the zoning district in which it is located, may be deemed a nonconforming lot provided that:

- (a) The lot was otherwise lawfully created and lawfully existed as of September 19, 1983.
- (b) The lot, including both the combined portion located within the Town of Haymarket and the portion located within the adjacent jurisdiction, met the minimum lot size for the zoning district in which the lot was located at the time that it was created; and
- (c) The owner records a deed in the land records of Prince William County in which any portion of the lot is located stating that: "This property shall not be further subdivided, unless all resulting lots, whether they are located in whole or in part within the Town of Haymarket, meet the minimum required lot size for the Town of Haymarket zoning district in which they are located at the time of the subdivision." Such a lot shall not be further subdivided, unless all resulting lots, whether they are located in whole or in part within the Town of Haymarket, meet the minimum required lot size for the Town of Haymarket zoning district in which they are located at the time of the subdivision.

Sec. 58-18.11. - Verification of nonconforming uses.

Prior to approval of any change in a nonconforming use, lot or structure permitted by sections Sec. 58-16.6 et seq., of this chapter, the lawful status of the use, lot or structure shall be verified by the Zoning Administrator. The Zoning Administrator may also verify the lawful status of a nonconforming use, lot or structure not proposed to change, upon the request of the owner of the property, or upon the request of a neighboring property owner.

1. In verifying the lawful status of a nonconforming use, lot or structure, the Zoning Administrator shall determine the following:

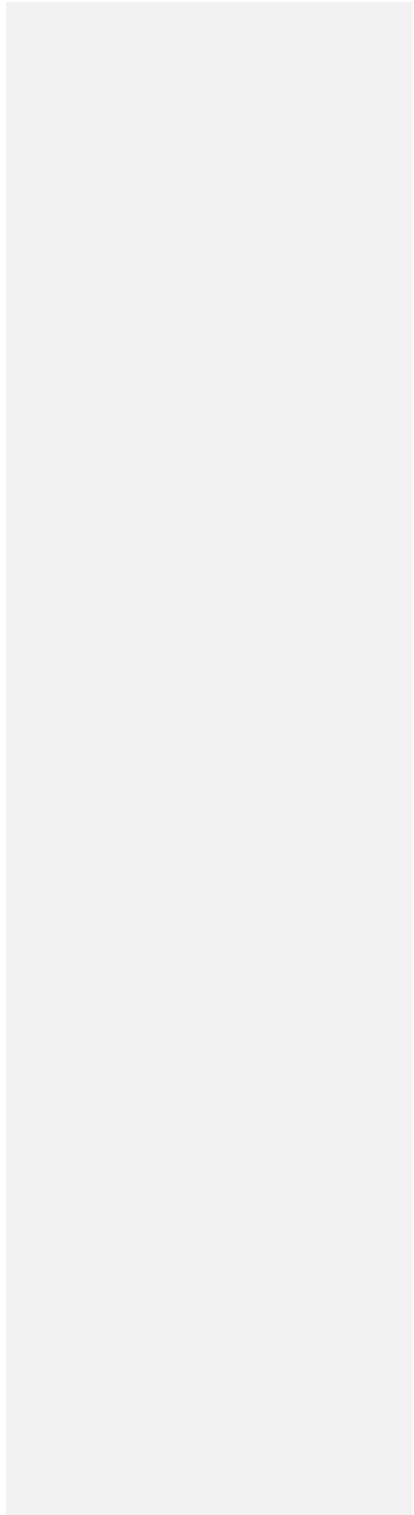
- (a) Whether the use, lot or structure is in fact lawfully nonconforming; and, if so, then;
- (b) The location and gross floor area (in square feet) of all buildings;
- (c) The location, use and size of all structures other than buildings;
- (d) The area of land (in square feet) devoted to all aspects of the nonconforming use, lot or structure (including buildings, parking, outside storage, travelways, open spaces, etc.); and
- (e) A description of the principal use(s) and all accessory, ancillary, secondary or incidental uses that make up the lawful nonconforming use as a whole.

2. The decision of the Zoning Administrator under subsection (1) shall be final after 30 days unless an appeal is filed to the Board of Zoning Appeals.

3. The decision of the Zoning Administrator shall be based on information provided by the owner of the property, on information provided by other persons with knowledge of the property, and on any other information available to the Zoning Administrator as public record. Such information may include, but shall not be limited to, permits, licenses, tax records, receipts, business records, photographs, plats, plans, bills, utility information, assessment information, and sworn affidavits from individuals with personal knowledge of the use and/or the property.

4. The Zoning Administrator shall keep a record of all verified nonconforming uses, lots or structures. Not less than every two years after the original date of verification, the owner or operator of a verified nonconforming use, lot or structure shall file a report with the Zoning Administrator, on forms available from the Town Planner, showing that the nonconforming use, lot or structure has not ceased for a two-year period, or been abandoned, and that the use is being operated in accordance with the decision rendered as a part of the nonconforming verification process, and any subsequent changes approved.

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Attachment: 8.04 ZTA Updates_Strikethroughs (5156 : ZTA - Final Draft)

ARTICLE XIX. – LANDSCAPING

Sec. 58-19.1 - Landscaping; purpose and intent.

The regulations included in this article are intended to promote the planting and preservation of landscape materials which:

- (1) Provide screening and buffering between incompatible land uses;
- (2) Provide shade and enhance the appearance of urban areas;
- (3) Prevent soil erosion from the activities of wind and water through the protection of the ground;
- (4) Provide parking lot landscaping to reduce the harmful effects of heat, noise and glare;
- (5) Provide the creation of safe and attractively landscaped areas in open spaces adjacent to public streets.

Sec. 58-19.2 - Applicability.

The provisions of this article shall apply to all preliminary and final site plan applications, including renovations and/or enlargement of existing structures, which alter the building footprint, and the enlargement of any parking lot but not to the resurfacing of any existing lot. Any improvements to existing single-family dwellings are exempt.

Sec. 58-19.3 - Landscape plan required.

A landscape plan meeting the requirement of this article is required for all preliminary and final site plan applications as described in article II of this chapter.

Sec. 58-19.4 - Contents of landscape plan.

All landscape plans shall be prepared by a landscape architect or contractor or individual proficient in landscape architecture. All landscape plans shall contain the following information:

- (1) Existing vegetation. Any and all existing mature landscape vegetation to be saved shall be identified by name, quantity and size; and methods of protection shall be shown on the plans.
- (2) Open space. All plans shall identify all open space and number of trees and plants required by this chapter that are to be provided in that open space. All plans shall include a table calculating the amount of that open space.
- (3) Schedule. All plans shall have a schedule of proposed plants, including the botanical and common name, the quantity, their size, their height and spread, and any other significant notes.
- (4) Plan content. All plans shall show, with sufficient detail, the location and description of all existing hardscape features such as driveways, parking areas, curbs, sidewalks, utility lines, structures and existing vegetation and also all proposed hardscape features, including all existing structures. All landscape areas shall be dimensioned, and all proposed plants shall be illustrated at maturity.
- (5) Scale. Plants shall be drawn at a scale not less than one inch equals 30 feet on sheets not to be larger than 24 inches by 36 inches.
- (6) North arrow. All plans are to have a north arrow.
- (7) Title block, signature of owner. There shall be a title block with a date and a scale, the preparer's name with current address and phone number and a description of the project. Plans shall also show the current owner and have his signature of approval.

- (b) Number of plants. Plant materials are shown as required per square foot of buffer area. For example, if the matrix in section 58-19.9 requires a 15-foot buffer along a 100-foot property boundary, a resulting 1,500 square feet of buffer space is required.
- (c) Alternative screens and modifications. Alternative planting programs achieving the objectives of the required screens shall be permitted to allow flexibility in landscape design. The Planning Commission and the Architectural Review Board may approve any of the alternative screens or a combination of the alternatives if the applicant proves that the objective of the screen or screenings has been met. The Planning Commission or Architectural Review Board may reduce or eliminate the requirements for a screen if a landscape plan proposes the use of hedges, shrubs, walls, berms or combination that achieve the same objective of the required screen.

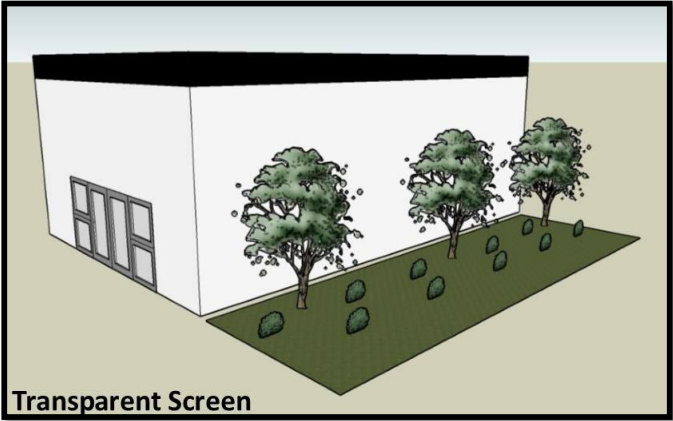
Sec. 58-19.9 - Screening requirements.

For all three types of screening requirements, there are three alternatives for plant requirements.

- (1) A transparent screen shall be an attractive transparent division between similar land uses.

TRANSPARENT SCREEN (TS)

Type of Plant	Alt 1	Alt 2	Alt 3
Canopy trees	1/1,000 sq. ft.	1/500 sq. ft.	1/500 sq. ft.
Ornamental trees	1/500 sq. ft.	0	0
Evergreen trees	0	0	1/350 sq. ft.
Shrubs	1/100 sq. ft.	1/100 sq. ft.	1/200 sq. ft.

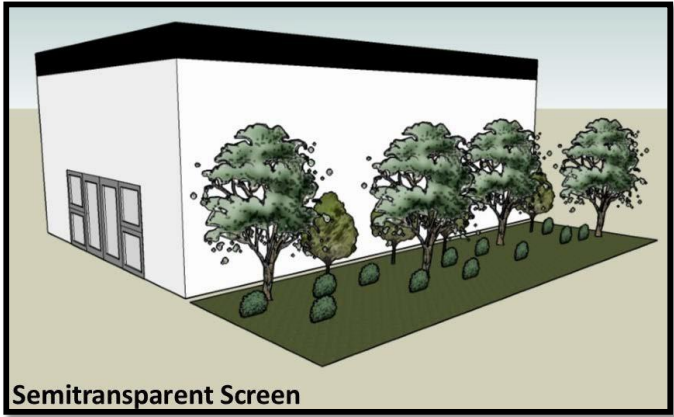


Transparent Screen

- (2) A semi-transparent screen shall partially block views and noise from the adjoining land uses which are not different in nature.

SEMI-TRANSPARENT SCREEN (SS)

Type of Plant	Alt 1	Alt 2	Alt 3
Canopy trees	1/1,000 sq. ft.	1/500 sq. ft.	1/500 sq. ft.
Ornamental trees	1/500 sq. ft.	0	0
Evergreen trees	1/500 sq. ft.	1/500 sq. ft.	1/175 sq. ft.
Shrubs	1/100 sq. ft.	1/100 sq. ft.	1/200 sq. ft.

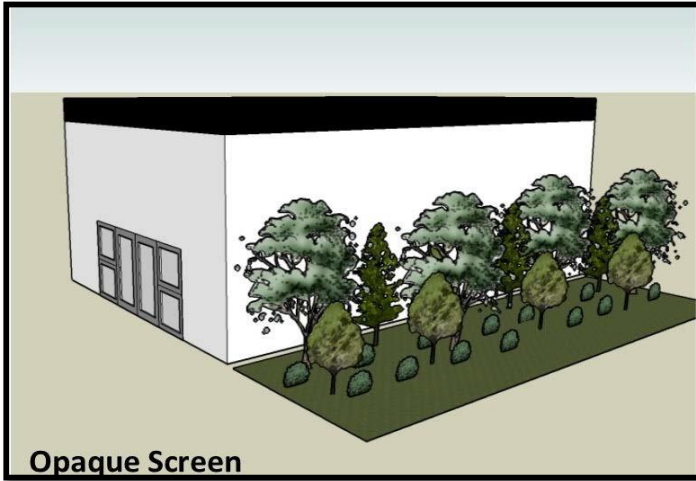


(3) An opaque screen creates a definite separation to block views and noise from land uses which are totally incompatible.

OPAQUE SCREEN (OS)

Type of Plant	Alt 1	Alt 2	Alt 3
Canopy trees	1/1000 sq. ft.	1/500 sq. ft.	1/500 sq. ft.
Ornamental trees	1/250 sq. ft.	1/500 sq. ft.	1/500 sq. ft.
Evergreen trees	1/500 sq. ft.	1/500 sq. ft.	1/175 sq. ft.
Shrubs	1/100 sq. ft.	1/100 sq. ft.	1/200 sq. ft.

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Notes: Tables express the number of plants required per required square foot of buffer yard.

Sec. 58-19.10 - Buffer yards.

- (a) Definition. Buffer yards are land areas providing visual relief to adjoining land uses and shall be used for the planting of landscape materials. Driveways and entrances connecting adjacent parking lots or development may interrupt the required buffer yard. Buffer yards may be provided in the setback areas required by the zoning district regulations; but buffer yards shall not be used for stormwater management, the storage of materials, vehicles, buildings, equipment and parking or loading areas.
- (b) Buffers in relation to setbacks and easements. Buffer yards in residential districts may be provided in any of the following ways:
 - (1) As common open space;
 - (2) In common use easements located outside the required lot area; or
 - (3) By additional space in addition to the required minimum yard required listed in the residential zoning district regulations.
- (c) Buffer credit. Existing buffer yards that are proposed on any subdivision or site plan applications which follow the buffer yard requirements shall be deemed to meet the buffer yard requirements.
- (d) Buffer yards adjacent to a vacant parcel. All subdivision and site plan applications that are adjacent to vacant parcels of property shall be required to fulfill the buffer yard requirements.
- (e) Screening of outdoor storage and loading areas. All outdoor storage and loading areas shall be screened from public view and any adjacent or residential properties. This screen shall be opaque in nature, at least eight feet in height, and be comprised of plants, trees, walls or other opaque materials. The screen must be presented to the Architectural Review Board for an aesthetic approval, which will then be forwarded to the Planning Commission for its recommendation and then forwarded to the Town Council for final approval.

(f) Screening and buffer yard matrix. The matrix included in section 58-19.11 describes the screening and buffer yard requirements between adjoining land uses.

Sec. 58-19.11 - Screening and buffer yard matrix.

Proposed Land Use	Adjacent District						
	R-1	R-2	TC	B-1	B-2	I-1	C-1
Industrial	40' OS	40' OS	40' OS	40' OS	40' OS	25' SS	25' OS
Commercial	30' SS	25' SS	10' OS	10' OS	10' OS	30' OS	15' SS
Residential	X	X	25' TS	25' TS	20' TS	40' OS	30' TS

Definitions. (refer to section 58-19.9)
 TS - Transparent Screen

SS- Semitransparent Screen OS- Opaque Screen

Sec. 58-19.12 - Landscaping requirements.

Landscaping, screening and open space regulations are as follows:

REQUIRED PLANT MATERIAL LIST

Canopy Trees

Common Name	Botanical Name	Function
Ginkgo (male)	Ginkgo biloba	Parking, street, buffer
Thornless Honey Locust	Gleditsia triacanthos inermis	Parking, street
Willow Oak	Quercus phellos	Parking, street, buffer
Littleleaf Linden	Tilia cordata	Parking, street, buffer
Silver Linden	Tilia tomentosa	Parking, street, buffer
Village Green	Zelkova serrata	Parking, street, buffer
Yellowwood	Cladrastis lutea	Parking, street, buffer
Purpleleaf Plum	Prunus cerasifera	Parking, street, buffer
Red Oak	Quercus rubra	Parking, street, buffer
Red Maple	Acer rubrum	Parking, street, buffer
Blackgum	Nyssa sylvatica	Parking, street, buffer
American Chestnut	Castanea dentata	Parking, street, buffer
American Sycamore	Platanus occidentalis	Parking, street, buffer

Evergreen Trees

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Common Name	Botanical Name	Function
Eastern Red Cedar	Juniperus virginiana	Buffer
White Pine	Pinus strobus	Buffer
Norway Spruce	Picea abies	Buffer
American Holly	Ilex opaca	Buffer
Dark American Arborvitae	Thuja occidentalis nigra	Buffer
Fosters Holly	Ilex festerii	Buffer

Ornamental Trees

Common Name	Botanical Name	Function
Amur Maple	Acer griseum	Buffer
Flowering Dogwood	Cornus florida	Buffer
Washington Hawthorn	Crataegus plaenopyrum	Street, buffer
Flowering Crabapple	Malus (various species)	Street, buffer
Flowering Cherry	Prunus (various species)	Street, buffer
Downy Serviceberry	Amelanchier arborea	Buffer
Shadblow	Amelanchier canadensis	Buffer
Japanese Maple	Acer palmatum	Buffer
Redbud	Cercis canadensis	Buffer
Chaste Tree	Vitex aqnus-castus	Street, buffer
Fringetree	Chionanthus virginicus	Street, buffer
Sassafras	Sassafras albidum	Street, buffer

Evergreen Shrubs

Common Name	Botanical Name	Function
English Yew	Taxus baccata	Buffer
Japanese Yew	Taxus cuspidata	Buffer
Azalea	(various species)	Buffer
Chinese Holly	Ilex cornuta	Buffer
Japanese Holly	Ilex crenata	Buffer

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Rhododendron	(various species)	Buffer
Doublefile Viburnum	Viburnum plicatum	Buffer

Deciduous and Flowering Shrubs

Common Name	Botanical Name	Function
Azalea	(various species)	Buffer
Cotoneaster	(various species)	Buffer
Forsythia	(various species)	Buffer
Red Twig Dogwood	Cornus sericea	Buffer
Viburnum	(various species)	Buffer
Winterberry	Ilex verticillata	Buffer
Winged Euonymus	(various species)	Buffer

Ground Cover

Common Name	Botanical Name	Function
Ajuga	Ajuga reptans	Buffer
Crimson Clover	Trifolium incarnatum	Buffer
Daffodils	(various species)	Buffer
Dwarf Cotoneaster	(various species)	Buffer
English Ivy	Hedera helix	Buffer
Ground Juniper	(various species)	Buffer
Native Grasses	Andropogon ternarius	Buffer
Red Poppies	(various species)	Buffer
Pachysandra	Pachysandra terminalis	Buffer
Periwinkle	Vinca minor	Buffer

Sec. 58-19.13 - Parking lot landscaping.

- (a) Generally. All parking areas, parking lots and service stations must be landscaped as described in this section unless otherwise explicitly exempted.
- (b) Perimeter parking lot landscaping. All areas outside the perimeter of the paved area of the parking lot shall be landscaped if they are adjacent to a public or a private street. The requirements of this section shall apply to the enlargement or construction of any parking lot with ten or more parking spaces.
- (c) Parking lots adjacent to public streets.

- (1) Landscape area requirements. A continuous landscape strip ten feet in width not inclusive of the sidewalk shall be located between the property line and the parking lot. If road improvements are necessary across the front of the property, a continuous landscape strip with an average width of ten feet may be provided to meet the requirements of this section. If a parking lot is built adjacent to an existing parking lot which has a landscape strip narrower than ten feet in width, the width of the existing landscape area may be continued provided that it is a minimum five feet wide.
 - (2) Number of trees. There will be one tree for each 30 feet of frontage and shall be planted in the landscape strip.
 - (3) Screening adjacent to the public street. A screen through the use of the planting of shrubs, hedges or the creation of berms of a combination of such uses shall be used to screen the parking lots to any public street for the full length of the street frontage. No berm or plant material shall obstruct the sight distance of a motorist entering or leaving the site in accordance with 58-19.7(a).
 - (4) Species of vegetation. All trees and shrubs planted shall meet the requirements of sections 58-19.12.
- (d) Parking lots adjacent to other parking lots.
- (1) Landscape area requirements. A continuous landscape strip at least five feet in width shall be located between the property owner's parking lot and the property line.
 - (2) Number of trees and shrubs. There will be two trees and six shrubs for every 30 linear feet of landscape parking strip.
 - (3) Species of vegetation. All trees and shrubs planted to meet the requirements of this section shall be identified in sections 58-19.12.
- (e) Interior parking lot landscaping.
- (1) Application. Interior parking lot landscaping shall apply to the enlargement or construction of any parking area or lot with ten or more parking spaces. This will be in addition to the perimeter parking lot landscaping, street tree planting and screening.
 - (2) Landscape area requirements. The minimum landscape for the interior parking lot shall be five percent of the gross area, which shall include all paved areas within the lot, including ingress and egress. For paved storage areas, a subtraction from the figure for land use such as lumber yards and warehouses may be applied.
 - (3) Minimum landscape area. The total minimum landscape area for interior parking lots shall be 25 square feet. Each landscape area shall have at least one canopy tree.
 - (4) Number of trees. There will be one tree for every ten parking spaces.
 - (5) Number of shrubs. There will be three shrubs for every ten parking spaces.
 - (6) Species of vegetation. All trees and shrubs planted shall meet the requirements of canopy shade trees as identified in sections 58-19.12

Sec. 58-19.14 - Minimum specifications for plant materials.

- (a) Condition. All plants shall comply with the American Association of Nurserymen standards and shall be sound, healthy and vigorous, well formed, free from disease.
- (b) Size. All plant material to be installed meeting the requirements of this article shall comply with the following minimum size requirements:
 - (1) Street trees, a height of 12 to 15 feet and a caliper of three inches;
 - (2) Canopy trees, a height of ten to 12 feet, a caliper of 2.5 inches;

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- (3) Evergreen trees, a height of six to eight feet with full branching;
 - (4) Ornamental trees, a height of five to six feet;
 - (5) Shrubs, height of one to two feet.
- (c) Planting procedures. All ground covers, shrubs and trees shall be planted following accepted American Association of Nurserymen standards and procedures. All trees that require staking shall be staked according to the American Association of Nurserymen standards, and all vegetation shall be watered at the time of installation according to their size. The contractor shall be responsible for the adequate watering and maintenance of the plants.
 - (d) Plant list. The plant list is divided into the following six categories: large canopy trees, medium canopy trees, evergreen trees, ornamental trees, shrubs, and ground covers. The plant material may be used to satisfy the requirements of this article unless alternative varieties are approved by the Architectural Review Board, Planning Commission and the Town Council (see section 58-19.12).
 - (e) Preservation of vegetation and tree cover. The existing vegetation and tree cover within any proposed subdivision or site plan shall be retained and preserved to the greatest extent possible with the design of the improvements and the grading of the property taken into full account. No tree which has a diameter at breast height of 20 inches or more shall be removed unless the subdivision or development of the subdivision requires the removal of the tree.
 - (f) Plants should be native species of Virginia. Exceptions are allowed as specified elsewhere in the zoning code.
 - (g) If additional plant selection is desired, please refer to page 64 of the Prince William County [Design and Construction Standards Manual: Section 800](#) ("Buffer Areas Landscaping & Tree Coverage Requirements") for additional plant material.

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Sec. 58-19.15 - Credit for existing vegetation.

- (a) Trees. All existing trees on site may be used to satisfy the requirements for the landscaping of parking lots and streets required by this article. Any such trees shall be in healthy condition and protected during construction activity with proper constraints. Such tree protection areas shall be illustrated on the landscape plans.
- (b) Exceptional trees. Trees of exceptional size, age or historic value that are preserved may be credited by the Architectural Review Board for the street tree and parking lot landscaping requirements.

Sec. 58-19.16 - Monitoring and enforcement.

- (a) Enforcement responsibility. The enforcement of the provisions set forth in this article shall be the responsibility of the Administrator or its designee. Any violation of this article is a criminal misdemeanor as described in Article I of this chapter.
- (b) Occupancy permits. Until all of the landscaping and other screening materials required by this article have been installed to the satisfaction of the Building Official, no occupancy permit shall be issued. If installation of the required plant material is prohibited due to inclement weather and delays the time of occupancy, the developer or his agent shall post a bond for the installation of the remaining required plant material. Along with the cash bond shall be a letter explaining the contractor's intentions to install the required plants and an estimate of that cost. If the maximum time allowed for the landscaping to be deferred from planting shall be six months and at such time the bond shall be forfeited to the Town for use in planting of the remaining required plant materials.
- (c) Condition. All landscape materials shall be kept free from all disease and infestation and in a healthy state or condition. All fences and screens shall be maintained in a safe and attractive condition and not allowed to deteriorate.
- (d) Repair and replacement. Upon written notice from the Administrator, the owner or agent shall repair or replace any fencing, screens or landscape materials that are not meeting the requirements of

proper condition in subsection (d) of this section within 30 days.

Article XX- INFRASTRUCTURE

Sec. 58-20.1 - Open space.

All subdivision and site plan applicants that have open space shall be responsible for the maintenance of these common areas so as to provide adequate light, air, and space to the residents or individuals of all developments. Sections 58-18.2 through 58-18.6 will address open space in residential and nonresidential developments.

Sec. 58-20.2 - Open space for residential properties.

The following requirements shall apply to all residential developments with land in common open space, whether these lands are proposed for public dedication or not, and all improvements provided for common use and benefit, whether or not required by this article:

- (1) General requirements. A legal entity shall be established as required under state law to provide for the ownership and maintenance of all open space areas and improvements.
- (2) Covenants. All such organizations described in subsection (1) shall be created by covenants and restrictions recorded among the land records of the Town or among the land records of the county. All such covenants shall include provisions for the maintenance of the common space.

Sec. 58-20.3 - Open space for nonresidential properties.

Applicability. All open space areas in nonresidential zoning districts shall include buffer yards, parking lot landscaping, and yard setbacks, and shall not include streets, service drives, parking, and loading areas or other such areas with no aesthetic value as determined by the zoning administrator.

Sec. 58-20.4 - Maintenance requirements.

- (a) Responsibility. All responsibility for the maintenance of any open space shall be the responsibility of the developer until transferred to the property owner or HOA. If the HOA fails to act after notice from the town, then the individual property owner shall be responsible.
- (b) Condition. All open space areas in residential developments shall be kept open to the residents and appropriately landscaped, and maintained in a clean, attractive, and safe condition.
- (c) Repair. Within 30 days upon receiving written notice from the Administrator, the owner/agent shall repair any defective condition of the open space areas that render these spaces unusable or unsafe. If the deficiencies are not rectified within the 30-day period (or any extension that may have been granted), the Administrator may repair the open space to a reasonable condition in accordance with the improved landscape plan to preserve property values in the area. The owner and/or his agent shall be responsible for reimbursing the Town for any costs associated with this repair.

Sec. 58-20.5 - Minimum open space required.

Open space shall be provided in the amount required by the appropriate zoning district regulation.

Sec. 58-20.6 - Streetscape requirements.

Streetscape requirements are categorized as follows:

- (1) Sidewalks.

- a. Width, slope, thickness
 - b. Location and handicap access
 - c. Material, finish, colors
 - d. Maintenance agreements
- (2) Furnishings
- a. Lights
 - b. Benches
 - c. Trash receptacles
 - d. Bike racks
 - e. Trees

Sec. 58-20.7 - Applicability of streetscape requirements.

The standards established in sections 58-20.6 through 58-20.20 are applicable to streetscape furnishings in conjunction with preliminary plan and final site plan regulations as defined in Article II of this chapter.

Sec. 58-20.8 - General requirements for streetscape furnishings.

The streetscape furnishings established in sections 58-120.6 through 58-20.20 shall be illustrated on the landscape plan as part of all preliminary and final site plan applications as described in Article 3 of this chapter.

Sec. 58-20.9 - Sidewalks.

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- (a) Sidewalks shall have a minimum unobstructed width of five feet or the standard width in accordance with the VDOT or the standard width recommended by the Americans with Disability Act, whichever is greater.
- (b) Maximum cross slope shall be two percent or one-fourth inch per foot.
- (c) Sidewalks along Washington Street shall be constructed of brick pavers with a minimum of three inches of compacted blue stone dust and with a minimum four-inch concrete base or equivalent.
- (d) Sidewalks shall follow the grade of the closest adjacent roadway curblin whenever possible.
- (e) Handicap ramps shall be provided in accordance with Virginia Department of Transportation (VDOT) standards or the most current American Disabilities Act standards, whichever is more restrictive, and located at all street intersections or street and driveway crossing areas.
- (f) Sidewalks located on Washington Street shall conform to Belden Brick paver color Regimental Red and have a chamfered edge, with or without lugs. Pavers shall be smooth, but not glazed, laid in a herringbone pattern with soldier course and subject to additional construction and design standards, as provided by the Town Engineer.

Sec. 58-20.10 - Lighting.

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- (a) All lighting shall be the Washington Steel style (fluted) post with the Washington 118 globe (acorn style), approximately 14 feet in height, being Hanover Forest Green, or equivalent, in color, having 17- inch wide metal base and concrete footer.
- (b) Photometric Lighting Plans shall be included with the Final Site Plan and shall include a narrative outlining the specifications and responsible parties for the permit, operation and associated maintenance costs.

- (c) Fixtures are to be located so as not to interfere with other existing utilities and to minimize conflicts with existing buildings and pedestrian sight lines.

Sec. 58-20.11 - Lighting in residential subdivisions.

- (a) Street lighting for single-family detached, townhouse, and multifamily subdivisions and site plans shall be provided along public and private streets, parking areas, and accessways. Lighting shall be located to establish the mounting height, luminance, and spacing to provide a minimum horizontal illumination of 0.4 footcandle.
- (b) Lighting shall be located at public and private intersections to establish the mounting height, luminance, and spacing to provide a minimum horizontal illumination of 0.6 footcandle on the roadway.

Sec. 58-20.12 - Business and industrial lighting.

- (a) Site lighting shall be located at primary building entrances and parking areas of buildings which are occupied by businesses which provide customer service for the public after sunset or prior to sunrise, to establish the mounting height, luminance and spacing to provide a minimum average horizontal illumination of 0.6 footcandle.
- (b) Lighting shall be located at public and private intersections to establish the mounting height, luminance and spacing to provide a minimum horizontal illumination of 0.6 footcandle on the roadway.
- (c) Light fixtures shall be no higher than 16 feet.

Sec. 58-20.13 - Lighting installation, operation and maintenance costs.

- (a) Where the proposed designed lighting system is within or adjacent to dedicated public street right-of-way, the Virginia Department of Transportation (VDOT) shall require that installation, operation and maintenance be contracted by an approved public or private utility company, and shall follow the VDOT or county specifications for lighting installation, whichever is more restrictive.
- (b) The developer or responsible agent performing the installation shall sign an agreement with the Town or the public/private utility company which guarantees full payment to the Town or public utility. The developer or agent responsible shall also sign an agreement with the appropriate utility company which guarantees full payment for these associated charges, as well as any administrative costs incurred by the Town. This agreement shall be executed prior to performance bond release.

Sec. 58-20.14 - Benches.

- (a) Benches located in all public rights-of-way and private access easements shall be the Model C-10, Victor Stanley, Inc., "The Classic" model or equivalent. The metal frame shall be painted "Martin Senour-Market Square Dark Tavern Green," W85-0620, or equivalent, with gloss finish and the wood slats shall be stained a medium red oak transparent stain. Benches shall be fastened securely to the pavement.
- (b) All installation and maintenance of benches in the public right-of-way shall be the responsibility of the Town; and all installation of benches in private access easements shall be the responsibility of the developer until transferred to the property owner or HOA. If the HOA fails to act after notice from the town, then the individual property owner shall be responsible.~~shall be the responsibility of the developer, his agent or homeowners association.~~

Sec. 58-20.15 - Trash receptacles.

- (a) Trash receptacles located in all public rights-of-way and private access easements shall be the Model 3-42 (with the S-2 lid where applicable), Victor Stanley, Inc., or equivalent. The metal frame shall be painted brown as approved by the Town Council, with enamel gloss paint. The brown shall be consistent throughout the Town.
- (b) All installation and maintenance of trash receptacles in the public right-of-way shall be the responsibility of the Town; and all installation and maintenance of trash receptacles in private access easements shall be the responsibility of the developer until transferred to the property owner or HOA. If the HOA fails to act after notice from the town, then the individual property owner shall be responsible.

Sec. 58-20.16 - Trees.

- (a) Street trees species requirements are identified on the plant list in section 58-19.12. Substitutions of plants may be allowed with the approval by the Architectural Review Board and the Planning Commission. All street tree designs and installations must be reviewed by the Architectural Review Board, the Planning Commission, and the Town Council with the following considerations:
 - (1) The theme or concept of the design shall be shown.
 - (2) The existing inventory of street trees and vegetation shall be shown.
 - (3) The street trees planted shall be medium or large canopy trees to provide visual relief and shade.
 - (4) The street trees shall be shown on plans at their maturity in order to allow maintenance preventative measures to be considered.
- (b) One street tree for every 25 feet of street frontage and plantings shall be at even intervals wherever possible.
- (c) Street trees in residential zoning districts shall be located generally within 20 feet of the public right-of-way. Street trees in business and industrial districts shall be located within the landscape area adjacent to the street.
- (d) All installation and maintenance of street trees located in the public right-of-way shall be the responsibility of the Town; and all installation and maintenance of street trees located in private access easements shall be the responsibility of the developer until transferred to the property owner or HOA. If the HOA fails to act after notice from the town, then the individual property owner shall be responsible.
- (e) Trees planted along Washington Street shall be of the crape myrtle 'red rocket' variety, also known as "lagerstroemia indica".

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Sec. 58-20.17 - Tree grates.

- (a) Tree grates located in all public rights-of-way and private access easements shall be the Neenah type cast iron R-8738-A1 180-degree square, primed and then painted with glossy enamel finish paint "Martin Senour-Market Square Dark Tavern Green," W85-0620 or equivalent.
- (b) All installation and maintenance of tree grates located in the public right-of-way shall be the responsibility of the Town; and all installation and maintenance of tree grates located in private access easements shall be the responsibility of the developer until transferred to the property owner or HOA. If the HOA fails to act after notice from the town, then the individual property owner shall be responsible.

Sec. 58-20.18. - Bike racks.

- (a) Bike racks located in all public rights-of-way and private access easements shall be of the ground-secured type, constructed of precast concrete and painted brown (consistent with the trash receptacles).

- (b) All installation and maintenance of bike racks located in the public right-of-way shall be the responsibility of the Town; and all installation and maintenance of bike racks in private access easements shall be the responsibility of the developer until transferred to the property owner or HOA. If the HOA fails to act after notice from the town, then the individual property owner shall be responsible.

Sec. 58-20.19 - Underground Utilities.

Except for transmission power lines of 34,500 volts or greater, water towers, or other installations approved by the Town Council, all on-site utilities or utility facilities shall be installed underground, including electrical, water, sewer, power, gas, telephone and cable utilities.

ARTICLE XXI. – USES AND DESIGN STANDARDS

Sec. 58-21.1 – Civic Uses

a. Public maintenance and service facility.

- (1) The outside storage for supplies, materials, or heavy equipment must be located in the rear yard and screened from any non-industrial zoned parcels or rights-of-way.
- (2) Outside storage areas shall not exceed thirty-five (35) percent of the total area of the site.

b. Recreation Facility, Public.

- (1) General standards: Any outdoor activity area, swimming pool, ball field, or court which adjoins a residential use type shall be landscaped according to Article XIX of this chapter.
- (2) Where nighttime lighting is proposed it shall be fully shielded and large evergreen trees shall be required to appropriately screen adjoining residences. Any such night-time lighting shall also be constructed in accordance with standards for a residential district described in Sec. 58-20.11 of this chapter.

Sec. 58-21.2 – Commercial Uses.

a. Commercial vehicle service repair.

All automobile repair services shall meet the following minimum standards:

- (1) All vehicles stored on the premises in excess of seventy-two (72) hours shall be placed in a storage yard.
- (2) No exterior display or storage of new or used automobile parts is permitted.
- (3) There shall be no storage of motor vehicles in landscaped areas or within ten (10) feet of the public road right-of-way.
- (4) Parking shall be located to the rear of the principal building.
- (5) The use shall be designed to ensure proper functioning of the site in regards to vehicle stacking, circulation, and turning movements.

b. Car Wash.

All car washes shall comply with the following general standards:

- (1) Car washes shall be located and designed so that vehicular circulation does not conflict with traffic movements in adjacent streets, service drives, and/or parking areas.

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- (2) Car washes shall be constructed in a design similar to the building character of the surrounding area.
- (3) Parking shall be located behind the front line of the principal building.
- (4) Any use that has a car wash shall treat the car wash as a primary use
- (5) No sales, repair, or outside storage of motor vehicles shall be conducted on the site.

c. Clubs.

All clubs shall comply with the following general standards:

- (1) Parking shall be located behind the front line of the principal building.

Additional standards in the R-2 district:

- (1) The building design shall be compatible with the surrounding neighborhood. The structure shall be street oriented with pedestrian entrances from the street.
- (2) Applicants must clearly demonstrate the use will be compatible with the neighborhood, including consideration of traffic circulation, parking, and appearance.
- (3) Exterior lighting shall comply with the standards outlined in Article XX of this chapter.

d. Commercial recreation.

- (1) Commercial outdoor sports and recreation areas shall have the appropriate landscaping and screening in accordance with Article XX of this chapter.
- (2) Where nighttime lighting is proposed, it shall be fully shielded and large evergreen trees shall be required to appropriately screen adjoining residences.

e. Construction sales and service.

Construction sales and services shall be subject to the following general standards:

- (1) Outdoor storage and/or display of goods, supplies, materials, or heavy equipment shall be located to the rear of the principal building.
- (2) Outside storage areas shall not exceed twenty-five (25) percent of the total site area.

f. Day care center.

The following general standards shall be applicable to all day care centers.

- (1) All day care centers shall comply with any and all requirements of the Town and State Codes, including but not limited to, obtaining a zoning permit, maintenance of a Town Business License, and maintain a state license in accordance with the State Code, as applicable.
- (2) Minimum lot size: One (1) acre.
- (3) Parking. Designated arrival and departure zones shall be located adjacent to the day care center in such a manner that children do not have to cross vehicle traffic aisles to enter or exit the center. Arrival and departure area shall include at least one parking/stacking space per 10 children.
- (4) Outdoor recreation areas shall be safely separated from all parking, loading, and service areas.
- (5) Fencing. A fence a minimum of four (4) feet in height shall completely enclose the outdoor recreation area so that children are safely contained.

Additional standards for the B1 district:

- (1) Any new buildings shall be street-oriented with pedestrian entrances from the street, and compatible with the surrounding development.
- (2) Maximum lot coverage: Forty-five (45) percent including building and all paved areas.

g. Doggy Day Care

h. Restaurant, Drive-thru/drive in facilities.

The following general standards shall apply to all drive-thru facilities:

- (1) All drive-thru entrances must be at least 50 feet from an intersection. The distance is measured along the property line from the junction of the two street lot lines to the nearest edge of the entrance.
- (2) Drive-thru facilities shall be located and designed so that vehicular circulation does not conflict with traffic movements in adjacent streets, service drives, and/or parking areas.
- (3) Off-street stacking spaces shall be provided in accordance with the following requirements:
 - a. Stacking spaces shall not interfere with travelway traffic or designated parking spaces.
 - b. Stacking spaces shall be at a minimum of eighteen (18) feet in length.
 - c. Stacking spaces shall be located to the side or rear of the principle structure and shall not be adjacent to any street right-of-way.
 - d. Off-street stacking spaces shall be provided in accordance with the following table:

Stacking Space Requirements		
<i>Type of Activity</i>	<i>Required number of stacking spaces</i>	<i>Start point for stacking spaces</i>
Financial Institutions - automated teller machine	3	Teller machine
Financial Institutions - bank teller lane	3	Teller window/tube
Professional Personal Service - dry-cleaning/laundry	3	Cleaner/laundry window
Retail Sales - pharmacy	3	Pharmacy window
Restaurant	6	Order box/speaker
	4*	Pick-up window
Other	To be determined by the Town. Such determination shall consider any study prepared by an engineer or other qualified design professional.	
* These spaces are required in addition to the stacking spaces required to be located behind the order box/speaker and shall be located between the pickup window and the order box/speaker.		

The following standards shall apply to all drive-in facilities:

- (1) Stacking spaces shall not interfere with the travelway traffic or designated parking spaces.
- (2) Stacking spaces shall be located to the side or rear of the principle structure and shall not be adjacent to any street right-of-way.
- (3) Six (6) stacking spaces shall be located behind the order speaker and four (4) stacking spaces

shall be located between the order speaker and the pickup window.
(4) Extended awnings, canopies, or umbrellas are permitted.

i. Entertainment Establishment, adult (Sexually Oriented Business).

- (a) Purpose. It is a purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the Town and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the Town. The requirements of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.
- (b) Findings and rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Town Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); and *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *Independence News, Inc. v. City of Charlotte*, 568 F.3d 148 (4th Cir. 2009); *McDoogal's East, Inc. v. County Comm'rs of Caroline County*, 341 F. App'x 918 (4th Cir. 2009); *Allno Enters., Inc. v. Baltimore County*, 10 F. App'x 197 (4th Cir. 2001); *Steakhouse, Inc. v. City of Raleigh*, 166 F.3d 634 (4th Cir. 1999); *D.G. Restaurant Corp. v. City of Myrtle Beach*, 953 F.2d 140 (4th Cir. 1991); *Wall Distributors, Inc. v. City of Newport News*, 782 F.2d 1165 (4th Cir. 1986); *Boyd v. County of Henrico*, 42 Va. App. 495, 592 S.E.2d 768 (2004) (en banc); and *Peek-a-Boo Lounge of Bradenton, Inc. v. Manatee County*, - F.3d - 2011 WL 182819 (11th Cir. Jan. 21, 2011); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby County*, 588 F.3d 372 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Richland Bookmart, Inc.*
- v. *Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *For the People Theatres of N.Y., Inc. v. City of New York*, 793 N.Y.S.2d 356 (N.Y. App. Div. 2005); *Taylor v. State*, No. 01-01- 00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles,

California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Ft. Worth, Texas - 2004; Kennedale, Texas - 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; Jackson County, Missouri - 2008; Louisville, Kentucky - 2004; New York, New York Times Square - 1994; the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); Dallas, Texas - 2007; "Rural Hotspots: The Case of Adult Businesses," 19 Criminal Justice Policy Review 153 (2008); "Social Change and Crime Rate Trends: A Routine Activity Approach," 44 American Sociological Review 588-608 (1979); Duncan Associates, Survey of Florida Appraisers (2007); Texas City Attorneys Association, Survey of Texas Appraisers and Crime-Related Secondary Effects (2008); "Background Analysis and Recommendations: Zoning Amendments Related to Sex Businesses," Manassas, Virginia - 2010; and "Everything You Always Wanted to Know About Regulating Sex Businesses," American Planning Association, 2000, the Town Council finds:

- (1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, declining property value, urban blight, litter, and sexual assault and exploitation.
- (2) Sexually oriented businesses shall be separated from sensitive land uses, including schools, churches, parks, libraries, public recreation areas, and residential areas, to minimize the impact of their secondary effects upon such uses and shall be separated from other sexually oriented businesses to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
- (3) Each of the foregoing negative secondary effects constitutes a harm, which the Town has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the Town's rationale for this chapter, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the Town's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the Town. The Town finds that the cases and documentation relied on in this chapter are reasonably believed to be relevant to said secondary effects.

The Town hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

The following general standards shall apply to all adult entertainment establishments:

- (1) Distances specified in this section shall be measured from the property line of one use to the property line of the other. The distance between an adult entertainment establishment and a residentially zoned district shall be measured from the property line of the use to the nearest point of the boundary line of the residential zoning district.
- (2) An adult entertainment establishment shall be located at least 350 feet from any religious assembly, education facility, public recreational facility, day care center, public assembly, cultural services, home for adults, life care facility, or residential zoning district in existence on the date on which the establishment obtains its zoning permit.
- (3) Any protected use listed in subsection (2) of this section may begin operation within 350 feet of a sexually oriented business only if the owner of the protected use, in addition to any other requirements of this Code, gives the Town a written statement that it acknowledges the presence of the sexually oriented business(es) and voluntarily waives the protection of subsection (c) of this section as to the sexually oriented business(es) for as long as the sexually oriented business(es) or any successor thereto remains. This written statement does not waive the protection of this section as to any sexually oriented business established or relocated after the written statement. If a sexually oriented business is discontinued for a period of two years or

more, then it must comply with the setback requirements of this section regardless of any such written statements by protected uses.

- (4) No adult entertainment establishment shall be located within one thousand (1,000) feet of any adult store or other adult establishment.
- (5) No adult entertainment establishment shall display adult media, depictions of specified sexual activities or specified anatomical areas in its window, or in a manner visible from the street, highway, or public sidewalk, or the property of others. Window areas shall remain transparent.
- (6) Exterior lighting shall be installed in accordance with Sec. 58-20.12 of this chapter to illuminate the parking area, walkways, and all entrances to the establishment.
- (7) Hours of operation shall not extend after 1:00 am.

j. Financial Institutions.

Financial institutions shall comply with the following general standards:

- (1) Exterior lighting shall be compatible with the surrounding neighborhood.
- (2) Entrances to the site shall be minimized and located in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
- (3) Loading areas shall be located to minimize the impact on the surrounding neighborhood.

k. Funeral home.

All funeral homes shall be subject to the following general standards:

- (1) The funeral home shall have a buffer between it and any residentially-zoned property abutting or directly across the street from the funeral home use as specified in Sec. 58-19.8 through 58-19.12 of this chapter.

Additional standards in the B-1 district:

- (2) Loading areas shall be sited in such a way so as to minimize the impact on any surrounding uses. Sufficient screening meeting the standards of Sec 58-19.8 through 58-19.12 of this chapter shall be provided.

l. Gasoline station.

Gasoline stations shall be subject to the following general standards:

- (1) Applicants shall demonstrate that the use will be compatible with the neighborhood with regards to traffic circulation, parking, and appearance and size of structures.
- (2) Entrances to the site shall be minimized and located in a manner promoting safe and efficient traffic circulating while minimizing the impact on the surrounding neighborhood.
- (3) Any canopy over the fuel pumps shall have the same roof shape and exterior materials as the primary structure.
- (4) Dumpsters shall be located so as to minimize view from off-site areas and shall be fully screened by a wall constructed of the same material and color as the principal structure.
- (5) The Zoning Administrator may require a traffic analysis to be provided by the applicant. Such analysis may include, but not be limited to, the proposed traffic flows, sight visibility for emerging vehicles, and other public safety factors.

m. Home Occupations.

All home occupations shall be subject to the following general standards:

- (1) Signs shall not exceed one square foot and shall be limited to one.
- (2) No outside storage shall be permitted. Commercial deliveries and pick-ups of supplies associated with the use shall be limited to not more than two per day and shall be made only during business hours.
- (3) The area devoted to the home occupation shall not exceed 25 percent of the gross floor area of the dwelling unit.
- (4) Use shall be conducted as an accessory use entirely within a single-family detached dwelling unit and shall not change the character of the dwelling unit nor have any exterior evidence of its use.
- (5) Hours of operation, excluding tutoring, education or training, shall be limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, 9:00 a.m. to 7:00 p.m. Saturday and Sunday. Hours of operation for tutoring, education or training shall be limited to between 7:00 a.m. and 9:00 p.m. Monday through Friday, 9:00 a.m. to 9:00 p.m. Saturday and Sunday.
- (6) Customers shall be received by appointment only. No more than five customers per day and no more than one customer at a time shall be scheduled, however, this shall not apply to adult daycare and tutoring. A customer shall be deemed: an individual or a group of individuals that arrive as a single unit at a destination usually by means of a motor vehicle.
- (7) The type and volume of traffic generated by a home occupation shall be consistent with the traffic generation characteristics of other dwellings in the area as determined by the zoning administrator.
- (8) The property on which the home occupation is conducted shall not have any parking spaces added to it during the time the home occupation is being conducted.
- (9) The home occupation shall not increase the demand on water, sewer, or garbage collection services to the extent that its use combined with the residential use of the dwelling shall not be significantly higher than is normal for residential uses as established by the zoning administrator.
- (10) The operator of a home employment use shall secure a business license, an application for a home employment, and certificate of occupancy in advance of commencing the use.
- (11) An application for a home occupation use, in addition to other items that may be required for combined permits, shall include:
 - a. A filing fee;
 - b. A copy of the latest deed or lease agreement;
 - c. A copy of the plat or house location survey;
 - d. A drawing showing the floor area of the home and identifying the total area that will be subject to the proposed home employment use;
 - e. A statement identifying the proposed hours of operation, the estimated number of patrons, and any other information to help describe the proposed home employment use; and
 - f. Any further information or documentation required to demonstrate compliance with the provisions of this section.
- (12) Approval of a home occupation use shall be revocable at any time by the Town because of the failure of the owner or operator of the use covered by the approval to observe all requirements of law with respect to the maintenance and conduct of the use and all conditions imposed in connection with the approval.
- (13) Approval of a home employment use shall stand revoked, without any action by the Town, if the use authorized has been intentionally abandoned, has ceased for a period of one year, or has not commenced within one year of approval.
- (14) There shall be provided either in a garage, driveway or designated lot, space for the parking of business and customer vehicles.
- (15) Retail sales are prohibited, and goods, stock in trade or other commodities shall not be displayed.

n. Microbrewery

1. The Microbrewery prepares handcrafted beers, and/or other malt beverages, distributed for on-site

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- consumption and/or off-premises consumption in hand-capped or sealed containers in quantities up to one-half barrel (15.5 gallons), up to a maximum of 5,000 barrels (31 gallons per barrel) per year.
2. All brewing ingredients shall be stored indoors, in sealed containers, off the floor, and in accordance with all applicable Health Department regulations.
 3. All exhaust from the brewing process shall be collected in a non-venting, stack condenser-type system and not vented directly into the atmosphere.
 4. Any spent grains intended for pick-up or delivery for use as feed shall be stored in sealed containers and kept indoors prior to pick-up/delivery.
 5. Any dumpsters where spent grains or other bi-product of the brewing process are disposed of shall be secured so as to block odors and prevent rodent infiltration.
 6. A microbrewery shall be separated from a public school by a minimum of 200 feet.
7. Special Exception. Microbreweries shall require special exception approval in the following cases:
1. The proposed microbrewery does not comply with all four of the standards for a microbrewery set forth in Sec. 58-21.2(O).
 2. Storage silos may only be permitted by special exception.

o. Hotel.

Additional standards in the B-1 district.

- (1) Parking shall be located behind the front line of the principal building.
- (2) The structure shall match the scale and mass of the surrounding structures as determined by the Zoning Administrator.

Additional standards in the B-2 district.

- (1) The primary structure shall have a maximum height of 60 feet on parcels adjacent to the interstate.
- (2) Development adjacent to residentially zoned property shall have increased screening and landscaping standards as determined by the Planning Commission during the site plan process.

p. Office, medical.

The following general standards shall apply to all medical offices.

- (1) Entrances to the site shall be minimized and located in such a way as to maximize safety, maintain efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
- (2) Loading areas shall be sited in such a way so as to minimize the impact on any surrounding neighborhood.

Additional standards in B-2 district.

- (1) The hours of operation may be restricted through the special use permit process.

q. Pawn Shop.

- (1) Parking shall be located behind the front line of the principal building.
- (2) Exterior lighting shall be installed in accordance with Sec. 58-20.13 of this chapter to illuminate the parking area, walkways, and all entrances to the establishment.

r. Restaurant, Mobile Food Unit

The following general standards shall apply to all mobile food units:

- (1) Town business license is required. When applying for a town business license, the owner/applicant must present a health inspection and safety inspection report that is no more than 1 year old prior to the date of application.
- (2) Mobile food units may be located on either public property or private commercially zoned property with written permission from the owner.
- (3) Must park in designated locations or areas that do not block pedestrian or vehicular traffic.
- (4) Signage is limited to the vehicle or a sandwich board type sign located within the immediate vicinity of the business.
- (5) May not be located within 100 feet of a business entrance that sells food for consumption.
- (6) Vehicles may be limited by the Town depending upon the location or event
- (7) Trash receptacles and removal shall be required.
- (8) No audio amplification is permitted.

s. Retail.

The following general standards shall apply to all retail uses:

- (1) No outdoor display of goods shall be permitted.

t. Shooting range, indoor.

- (1) Parking shall be located behind the front line of the principal building.
- (2) Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking and appearance. Drop-off areas may be located in the front yard, but shall maintain a residential character and appearance.
- (3) Exterior lighting shall be compatible with the surrounding neighborhood.
- (4) Entrances to the site shall be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
- (5) The scale, massing, and building design shall be compatible with the surrounding neighborhood.
- (6) The structure shall be street oriented with pedestrian entrances from the street.

u. Shopping center.

The following general standards shall apply to all shopping centers:

- (1) Entrances to the site shall be minimized and located in such a way as to maximize safety, maintain efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
- (2) The scale, massing, and building design shall be compatible with surrounding developments. The structures shall be street oriented with pedestrian entrances from the street.
- (3) No outdoor display of goods shall be permitted.

v. Retail, grocery.

All grocery stores shall be subject to the following general standards:

- (1) Entrances to the site shall be minimized and located in such a way as to maximize safety, ensure efficient

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traffic circulation and minimize the impact upon the surrounding neighborhood.
Additional standards for the B-1 district:

- (1) Parking shall be located behind the front line of the principal building.
- (2) Any new buildings shall be street-oriented with pedestrian entrances from the street, and compatible with the surrounding development.
- (3) Lighting shall be consistent with the surrounding neighborhood.

w. Retail, liquor.

The following general standards shall apply to all liquor stores:

- (1) A proposed liquor store shall not be located within 500 feet of an existing liquor store. This distance shall be measured from the property line of one business to the property line of the other.
- (2)
- (3) Exterior lighting shall be compatible with the surrounding neighborhood.
- (4) Entrances to the site shall be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
- (5) The scale, massing, and building design shall be compatible with the surrounding neighborhood.

x. Wholesale sales.

- (1) Loading areas shall be sited in such a way so as to minimize the impact on any surrounding neighborhood.
- (2) Parking shall be located behind the front line of the principal building.

Sec. 58-21.3 – Industrial Uses.

a. Industrial, light.

- (1) The use, storage, and disposal of hazardous materials shall meet all applicable federal, state, and local codes.
- (2) Accessory outdoor storage up to 10% of the building area may be permitted. Outdoor storage shall be located to the rear of the principal building.

Sec. 58-21.4 – Residential Uses.

a. Honeybee Accessory Use

The keeping of honeybees is allowed as an accessory use to a residential principal use in the R-1 district and shall be kept according to the following regulations.

Use

- 1) The minimum lot size required to keep honeybees is 1 acre, for a maximum of four (4) hives.
- 2) Property owners must obtain HOA approval.

Structure

- 3) More than four beehives may be kept provided there is 2,500 square feet per additional hive.
- 4) Hives shall consist of no more than three (3) boxes per hive. Each box shall not exceed 19 7/8 inches in length, by 16 1/4 inches in width, and 9 5/8 inches in depth. If a skep, barrel, log gum, or other container are used instead of boxes for a hive, the dimensions shall not exceed the limits given in item 3.
- 5) Stacking is limited to 2 beehive boxes.

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Location

1. Hives shall not be located in a front or side yard.
2. Hives shall be setback 10 feet from a street, sidewalk, or adjacent lot lines; 20 feet from the principal dwelling unit on the property; 50 feet from any childcare center, educational center, assisted living facility or any penned, tethered, kenneled, or confined animal.

Care and Maintenance

1. Hives shall be kept so that combs can be removed for inspection and shall be maintained in usable condition.
2. There shall be one adequate and accessible water source provided on site and located within 50 feet of the beehive(s). Water shall be clean and maintained to not be stagnant.
3. A flyway barrier shall be erected at six (6) feet in height parallel to the lot line between the hive opening and the adjacent property lot line within 15 feet. The flyway shall be a solid fence, dense vegetation or combination thereof and be maintained so that bees are forced to fly at least six feet or higher from the ground.

Penalties

1. Non-compliance will result in action according to Article VI of this chapter.

b. Domestic Chickens Accessory Use

Domestic chickens are permitted in R-1 zoning districts for the sole purpose of producing eggs. The keeping of domestic chickens shall be in accordance with the following regulations. This section does not allow for the keeping of guinea fowl, peacocks, ducks, geese, game birds, pheasants, or other domestic fowl.

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Use

1. The minimum lot size for the keeping of chickens shall be 1 acre or greater, and only acceptable in the R-1 zoning district.
2. The maximum number of chickens allowed is four (4) hens. No roosters or capons shall be allowed.
3. Property owners must obtain HOA approval.

Structure

1. Chicken coop minimums and maximums are 32 sq. ft and 64 sq ft, respectively.
2. Chicken runs should allow for a minimum of six (6) square feet per bird and be attached to the chicken coop so that chickens can access the run directly from the coop.
3. Coops shall be located a minimum of 50 feet from any storm drain or RPA stream.
4. Coops shall be located 10 feet from any property line and not located in a front or side yard.
5. Coops shall be located a minimum 10 feet from the principal dwelling on the property.
6. Owner must fence their entire property before obtaining chickens.

Care and Maintenance

1. Chickens shall only be kept and raised for the production of eggs. Slaughtering chicken on the property is prohibited. Commercial activities such as selling eggs or selling chickens for meat shall be prohibited.
2. Chicken coops should be predator proof, well ventilated, provide adequate shade and sun, and shall be designed to be easily accessed to clean. All chickens shall be cooped overnight. The structure shall be enclosed on all sides (minimum four (4) feet high), have a roof, and at least one access door.
3. Clean water shall be provided at all times, and feed shall be kept secure so as to prevent the attraction of rodents or other animals.
4. All structures for chickens shall be kept clean and in a sanitary condition at all times so as to prevent odors detectable at or beyond the property lines. No person shall store, accumulate, or permit a stockpile of chicken litter or waste in any manner. Chicken litter shall be disposed of in conformance with the Town

of Haymarket's waste disposal contractor.

Penalties

Non-compliance will result in action according to Article VI of this chapter.

c. Short Term Rental, Residential (STRR)

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Short term rentals are an allowed accessory use in the R-1 and R-2 zoning districts and shall be in accordance with the following regulations.

- (1) Annual registration with the Town. A property management plan shall be provided at the time of registration and shall be kept current. This plan shall include the name and 24- hour contact information of the property owner or responsible party, method of booking, procedure by which guests will check-in (check-ins shall be in person with the property owner), procedures for collecting and paying taxes and fees, floor plan of the property, plans for addressing routine and emergency maintenance (contractors, etc), and an HOA approval letter. Homeowners Associations (HOAs) that do not allow short term rentals are not eligible.
- (2) Property owner shall sign a declaration that the dwelling meets all applicable building and fire codes. The property shall be made available for entry and inspection to the Zoning Administrator and any other officials the Administrator may deem necessary to verify the use is in keeping with the standards of this section.
- (3) Proof of residence as owners primary residence (absentee ownership is not permitted)
- (4) Homes may be rented for a maximum (cumulative) 180 days in a calendar year.
- (5) Maximum number of guests allowed: 2 per bedroom.
- (6) Residents are responsible for keeping a record of rental contracts, the dates the home was rented, and the price at which the home or rooms were rented.
- (7) Each contract should be for a minimum two night stay. Single day or night rentals are prohibited.
- (8) Residents are responsible for paying all taxes associated with STRRs including but not limited to all local and state sales taxes, and the transient occupancy taxes.
- (9) Signage on the exterior of the property advertising the use of the home as an STRR is not permitted.
- (10) Permit shall be revoked if more than two substantial complaints are received within a one-year period. Revocation is for a minimum of one year but may be permanent at the discretion of the Town.
- (11) Non-compliance will result in action according to Article VI of this chapter.

d. Solar Energy Systems

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Purpose and Intent.

The Town of Haymarket finds it in the public interest to encourage the use of renewable energy systems. Solar energy is a clean renewable energy source that enhances the reliability and resiliency of the power grid, reduces peak power demand, and diversifies the town's energy portfolio. Solar also promotes customers' choice for electric supply. The town also finds that there should be a balance between the use of solar energy systems and the protection of historic buildings, and the general health and safety of town residents.

The purpose and intent of this section is to facilitate the effective and efficient use of solar energy systems, other than utility-scale electrical generating stations, as an allowed accessory use within any zoning district subject to the provisions of section 58-21.4(d). This section regulates solar energy systems, both photovoltaic and solar hot water systems, installed on properties within the Town of Haymarket limits.

Definitions

Solar energy system: An energy system that consists of one or more solar collection devices, solar energy

Attachment: 8.04 ZTA Updates_Strikethroughs (5156 : ZTA - Final Draft)

related “balance of system” equipment, and other associated infrastructure with the primary intention of generating electricity, storing electricity, or otherwise converting solar energy to a different form of energy. Solar energy systems may generate energy in excess of the energy requirements of a property if it is to be sold back to a public utility in accordance with the law.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector

Solar energy system, roof-mounted: A solar energy system that is structurally mounted to the roof of a building or structure.

Building-Integrated Photovoltaic (BIPV) Systems: A solar energy system that consists of integrating Solar PV modules into the building envelope, where the solar panels themselves act as a building material (roof shingles) or structural element (i.e. façade).

Solar Energy Facilities: An alternative energy facility that consists of one or more ground-mounted, free-standing, or building-integrated solar collection devices, solar energy related equipment and other associated infrastructure with the primary intention of generating electricity or otherwise converting solar energy to a different form of energy for primarily commercial or other off-site use.

Solar energy system, ground-mounted: A solar energy system that is structurally mounted to the ground and is not roof-mounted.

Solar energy system, roof mounted: A solar energy system that is structurally mounted to the roof of a building and is not ground-mounted.

Solar hot water system: a system that includes a solar collector and a heat exchanger that heats or preheats water for a building heating systems or other hot water needs.

Solar collector: Any device whose purpose is the absorption of solar radiation for the heating of water or buildings or the production of electricity.

Photovoltaic or PV: Materials and devices that absorb sunlight and convert it directly into electricity.

Solar access easements: A formal written agreement between neighbors that protects a property owner's right to install PV and access to sunlight.

Micro-inverter: a device attached directly to each solar module to convert DC to AC power.

Applicability

1. Roof mounted solar energy systems as described in this section are permitted in the R-1, R-2, B-1 B-2, T-C, C-1, and I-1 zoning district as accessory use to a permitted principal use subject to the standards for accessory uses in the applicable zoning district and the specific criteria set forth in this article. A zoning approval must be obtained prior to the installation of solar energy systems.
2. Small scale ground mounted solar energy systems are permitted in the I-1 by special use permit.
3. All solar energy systems within the historic boundary or on a historic resource property must obtain a certificate of appropriateness.

Approval procedures

- 1. All solar energy systems constructed, installed, moved, modified, or maintained within town limits shall comply with the following requirements:

Solar energy systems will be permitted according to Table 21.4(d)(i): Solar Energy Systems by Zoning District.

Solar Energy Systems by Zoning District			
District	Roof Mounted	Small Scale Ground Mounted	Large Scale Ground Mounted
R-1	Allowed	Not permitted	Not permitted
R-2	Allowed	Not permitted	Not permitted
TC	Allowed	Not permitted	Not permitted
B-1	Allowed	Not permitted	Not permitted
B-2	Allowed	Not permitted	Not permitted
I-1	Allowed	Allowed; special use permit	Not permitted
C-1	Allowed	Not permitted	Not permitted

2. Permits

The appropriate permit shall be required for all new construction and installation of solar energy systems in a zoning district not in the historic overlay. A certificate of appropriateness shall be required for all new construction and installation of solar energy systems in the historic overlay. All permits shall be accompanied by a signed application for a permit or certificate of appropriateness (historic overlay only) with plans, specifications, and scope of work to include the following information:

- 1. Property lines and physical features, for the project site;
- 2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
- 3. Blueprints or drawings of the solar energy system showing the proposed layout of the system, the distance between the proposed solar collector and all property lines, and the tallest finished height of the solar collector;
- 4. Name, address, and contact information for proposed system installer;
- 5. Name, address, phone number and signature of the applicant and/or property owner;
- 6. Zoning district designation for the parcel(s) of land comprising the project site;
- 7. Documentation that the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement;
- 8. Payment of the appropriate permit fee, as indicated.

All solar energy systems constructed, modified, installed, moved, or maintained within the town shall comply with the following regulations:

- (1) Historic Overlay. Solar energy systems in the Historic Overlay must receive a certificate of appropriateness from the ARB. These solar energy systems shall be designed, sized, and located to minimize their effect on the character of a historic building by;

- a. placing solar energy systems to avoid obscuring significant features or adversely affecting the perception of the overall character of the property.
- b. Minimizing visual impacts by strategically locating solar energy systems ie: placing panels on the back of the structure, placing panels on a cross gable, or placing panels flush with the roof.
- c. When applicable, solar energy systems should be installed on an addition or secondary structure.
- d. Using the least invasive method feasible to attach the solar energy system to a historic roof such that it avoids damage to significant features and historic materials and can be removed and the original character easily restored.

(2) Roof-mounted solar energy system.

- a) *Height*. Solar panels attached to a roof shall not exceed the maximum permitted height of the structure type by more than five (5) feet.
- b) *Emergency access*. Roof-mounted solar energy systems shall be located in such a manner as to ensure emergency access to the roof, provide pathways to specific areas of the roof, provide for smoke ventilation opportunities, and provide emergency egress from the roof.
- c) *Roof Types*. For buildings with pitched roofs, solar collectors shall be located in a manner that provides a minimum of one three-foot wide clear access pathway from the eave to the ridge on each roof slope where solar energy systems are located as well as one three-foot smoke ventilation buffer along the ridge. Rooftops that are flat shall have a minimum three-foot wide clear perimeter between a solar energy system and the roofline, as well as a three-foot wide clear perimeter around roof-mounted equipment such as HVAC units.

(3) *Ground Mounted Solar*. Small scale ground mounted solar in the I-1 district shall be allowed with a special use permit. Systems shall not exceed 5 feet in height.

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(4) *Solar Easement*. Owners of solar energy systems are encouraged but not required to obtain a solar access easement or a similar legal agreement from neighboring landowners to ensure solar access such that vegetation from neighboring lots do not unreasonably obstruct solar access for the solar energy collection devices. The town does not guarantee and will not protect any individual property rights with respect to solar access.

Additional standards

1. All solar energy systems shall comply with the Virginia Uniform Statewide Building Code
2. All solar energy systems shall comply with the state electric code
3. Installation of solar energy systems should avoid, to the greatest extent practicable, the removal of trees and/or the removal of tree canopies.
4. Solar energy collectors, controls, dampers, fans, blowers and pumps shall be accessible for repairs, inspection, replacement, and maintenance.

Enforcement and penalties

Non-compliance will result in action according to Article VI of this chapter.

e. Family Health Care Structures, temporary.

Temporary family health care structures shall be subject to the following standards:

- (1) Such structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.
- (2) Only one family health care structure shall be allowed on a lot or parcel of land.
- (3) The structure shall be no more than 300 gross square feet and shall comply with all applicable provisions of the Industrialized Building Safety Law (§36-70 et seq.) and the Uniform Statewide Building Code (§36-97 et seq.).

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- (4) Prior to installing a temporary family health care structure, a permit must be obtained from Council and associated fees paid.
- (5) Any family health care structure shall comply with all applicable requirements of the Virginia Department of Health.
- (6) No signage advertising or promoting the existence of the structure shall be permitted on the exterior of the structure or anywhere on the property.
- (7) Any temporary family health care structure shall be removed within 60 days of the date on which the temporary family health care structure was last occupied by a mentally or physically impaired person receiving services or assistance.
- (8) Council may revoke the permit granted in subsection (3) if the permit holder violates any provision of this section.
- (9) The structure shall appear similar to other accessory structures in the neighborhood.

Sec. 58-21.5 – Miscellaneous Uses.

a. Cemetery.

Cemeteries shall be subject to the following general standards:

- (1) Minimum lot requirement: Acres (5) acres.
- (2) Minimum frontage: One hundred (100) feet on an arterial street.
- (3) No graves shall be located within the buffer yards.
- (4) All driveway shoulders shall be constructed with a reinforced grass system approved by the Administrator

b. Parking Facility.

The following general standards shall apply to all parking facilities:

- (1) No motor vehicle work shall be permitted in association with a parking facility except under emergency service work.
- (2) Parking shall be the principal use of all parking facilities. Spaces may be rented for parking but no other business of any kind shall be conducted in the structure.

ARTICLE XXII. – SUBDIVISIONS

Sec. 58-22.1 – Title. This section shall be known, cited, and referred to as "The Town of Haymarket Subdivision Ordinance".

Sec. 58-22.2- Purpose. The purpose of this article is to:

- 1. establish standards and procedures for the town as authorized by Code of Virginia, §§ 15.2-2240 to subdivide land within the Town;
 - 2. Insure the process has applicable and appropriate reviews;
 - 3. To insure the growth of the Town is in accordance with the efficient and economical use of public funds;
 - 4. To insure that residential areas are provided with healthy surroundings;
 - 5. To improve the public health, safety, and welfare of the citizens of the Town.
- (1)–

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Sec. 58-22.2- Applicability.

This section and all regulations adopted hereunder shall apply to all subdivisions of land, including, but not limited to, any condominium or any subdivision of any convertible land.

Sec. 58- 22.3- Prior Rights.

This section shall not be construed as abating any legal action now pending under, or by virtue of, the prior existing subdivision ordinance or regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person or as waiving any right of the county under any section or provision existing at the time of adoption of the ordinance from which this chapter is derived, or as vacating or annulling any rights obtained by any person by lawful action of the county, except as shall be expressly provided for in this chapter.

Sec. 58-22.2 - Land must be suitable.

The administrator shall not approve the subdivision of land if, from adequate investigations conducted by all public agencies concerned, it has been determined that, in the best interest of the public, the site is not suitable for platting and development purposes of the kind proposed. The administrator may require the subdivider to furnish topographic maps, floodplain profile elevation information or other relevant information.

Sec. 58-22.3 – Flooding.

Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, or for such other uses in such a way as to endanger health, life, or property, or aggravate erosion or flood hazard. Such land within the subdivision shall be set aside on the plat for such uses as shall neither be endangered by periodic or occasional inundation nor produce conditions contrary to the public welfare.

Sec. 58-22.4 – Improvements.

- (a) Generally. All required improvements shall be installed by the subdivider at his cost. Specifications which have been established either by the Virginia Department of Transportation for streets, curbs, etc., or local regulations, ordinances and codes, shall be followed. The subdivider's bond shall not be released until construction has been completed and approved by the chief engineering officer or appropriate official. All improvements shall be in accordance with this section.
- (b) Streets.
 - (1) Design; construction. All streets shall be designed and constructed in accordance with the standards set by the Virginia Department of Transportation (VDOT) for acceptance into the state secondary road system, and at no cost to the locality.
 - (2) Alignment and layout. The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas and proposed streets as shown in the adopted plan. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Where in the opinion of the administrator it is desirable to provide for street access to adjoining property, proposed streets shall be extended to the boundary line of such property. Half streets along the boundary of land proposed for subdivision shall not be permitted. Wherever possible, streets shall intersect at right angles. In all areas where slope exceeds 15 percent, streets running with contours shall be required to meet intersecting streets at angles of not less than 60 degrees, unless approved by the administrator upon recommendation of the highway engineer.
 - (3) Access to major streets. Where a subdivision borders on or contains an existing or proposed major street, the planning commission may permit the subdivider to provide that the access to

such streets be limited by one or more of the following means:

- a. The subdivision of lots so that they will back onto the major street and front onto a parallel minor street. No access shall be provided from the major street, and screen planting shall be provided in a strip of land along the rear property line of such lots.
 - b. The subdivision of lots along a series of culs-de-sac, U-shaped streets, or short loops entered from and designed generally at right angles to such a parallel minor street, with the rear lines of the terminal lots contiguous with the major street right-of-way.
 - c. The subdivision of lots along a service street and physically separated from the major street by a planting or grass strip and having access thereto at approved points.
- (4) Approach angle. Major streets shall approach major or minor streets at an angle which is in accordance with specifications of the state department of transportation.
 - (5) Minimum widths. The minimum width of proposed streets, measured from lot line to lot line, shall be 50 feet, or as specified by the Virginia Department of Transportation for acceptance into the state secondary road system.
 - (6) Cul-de-sac. Generally, permanent culs-de-sac shall be no longer than 400 feet to the beginning of the turnaround. Each cul-de-sac must be terminated by a turnaround of not less than 100 feet in diameter.
 - (7) Alleys.
 - (8) Private streets and reservation strips.
 - a. No private street shall be permitted in a platted subdivision for detached single-family dwelling units. All other subdivided property except townhouses shall be served by a publicly dedicated street.
 - b. When a private access is platted or provided, the developer shall establish and record with the plat appropriate declarations and agreements, relieving the town from all current and future maintenance responsibility; and furthermore the developer shall establish a maintenance fund for future repairs and snow removal by the established homeowners' association.
 - (9) Names. Proposed streets which are obviously in alignment with other existing and named streets shall bear the names of the duplicate existing street names, irrespective of the use of the suffix "street," "avenue," "boulevard," "road," "driveway," "place," "lane," or "court." Street names shall be indicated on the preliminary and final plats and shall be approved by the administrator. Names of existing streets shall not be changed except by approval of the council.
 - (10) Identification signs. Street identification signs, readable from either side, of a design approved by the administrator shall be installed by the subdivider at all intersections.
- (c) Monuments.
- (1) Generally. As required by this chapter, all monuments must be installed by the subdivider and shall meet the minimum specifications described in this subsection. Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the administrator are clearly visible for inspection and use. Such monuments shall be inspected and approved by the administrator before any improvements are accepted by the council.
 - (2) Location—Concrete. Concrete monuments four inches in diameter or four inches square, three feet long, with a flat top, shall be set at all street corners, at all points where the street line intersects the exterior boundaries of the subdivision, and at right angle points, and points of curve in each street. The top of the monument shall have an appropriate mark to identify properly the location and shall be set six inches above the finished grade.
 - (3) Same—Iron pipe. All other lot corners shall be marked with iron pipe not less than three-fourths inch in diameter and 24 inches long, and driven so as to be flush with the finished grade. When

rock is encountered, a hole shall be drilled four inches deep in the rock, into which shall be cemented a steel rod one-half inch in diameter, the top of which shall be flush with the finished grade line.

- (d) Water facilities. Public water service shall be extended by the subdivider to all lots within the subdivision in accordance with the approved design standards and Prince William County's DCSM specifications for water service construction, and improvements in the town. No subdivision or development shall be approved without an acceptable water supply plan, which provides water service to each lot.
- (e) Sewerage facilities. Where public sewerage facilities are available, the service shall be extended by the subdivider or developer to all lots, and individual septic tanks shall not be permitted. No subdivision or development shall be approved without an acceptable sewerage facilities plan, which provides sewerage service to each lot.
- (g) Storm drainage facilities. The subdivider shall provide all necessary information needed to determine what drainage improvements are necessary to properly develop such property. Such information shall include but may not be limited to contour data, drainage plans, and flood control devices. The subdivider shall also provide plans for all such improvements, together with a certified engineer or surveyor statement that such improvements, when properly installed, will be adequate for development. The highway engineer shall then approve or disapprove the plans. The subdivider shall also provide any other information required by the highway engineer. The subdivider shall install the approved storm drainage facilities.
- (h) Fire protection. Fire hydrants shall be required in a subdivision at locations approved by the administrator, provided adequate public water is available. The location and design of the fire hydrants shall meet the American Insurance Association specifications.
- (i) Utility service. All utility poles or underground conduits for electric power lines or telephone lines shall be placed in easements provided along the rear or side lot lines, whenever possible.
- (j) Easements. The administrator may require the subdivider to provide drainage easements through adjoining property. The width of easements provided for drainage, water, sewer, power lines and other utilities in the subdivision shall be determined by the administrator.
- (k) Plans and specifications. Six blue or black line prints of the plans and specifications, for all required physical improvements to be installed, shall be prepared by a licensed engineer or land surveyor and shall be submitted with the final plat to the administrator for approval or disapproval within 30 days. If approved, one copy bearing certification of such approval shall be returned to the subdivider. If disapproved, all papers shall be returned to the subdivider with the reason for disapproval stated in writing.

Sec. 58-22.5 – Bonding.

- (a) The subdivider shall furnish a cash bond or equivalent, or a certified check payable to the town in an amount equal to the total cost of the improvements shown on the plat as determined by the administrator. Such bond or check shall guarantee that the improvements will be installed within a designated reasonable length of time in a manner acceptable to the Town. The bond or check shall accompany the final plat. When construction has been completed, approved and accepted on each section of the required improvements, the administrator may release the bond submitted for the amount for that completed section of the required improvements. The periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required herein shall be in compliance with Virginia Code § 15.2-2245.

- (b) The subdivider shall file a maintenance bond with the Town in an amount considered adequate and in a form satisfactory to the administrator, in order to assure the satisfactory condition of the required improvements, for a period of one year after the date of their acceptance by the Town.
- (c) In the case where development is projected over a period of years, the commission may authorize submission of final plats by sections or stages of development, subject to such requirements or guarantees for improvements in future sections or stages of development as it finds essential for the protection of any approved section of development.
- (d) In the absence of a performance bond or check, no final plat shall be approved or recorded until the required improvements have been installed and approved by the administrator.
- (e) Sidewalks shall be provided in accordance with the specifications of the state department of transportation.
- (f) Curbs and gutters shall be installed on both sides of streets shown on the subdivision plat and shall be in accordance with the design standards and specifications of the state department of transportation.

Sec. 58-22.6 – Lots.

- (a) Generally. Lots shall be arranged in order that the considerations in this section are satisfied.
- (b) Size. The minimum lot size in any subdivision shall be in accordance with zoning ordinances of the jurisdiction in which the lot is located.
- (c) Shape. The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings, be properly related to topography, and conform to requirements of this chapter. Lots shall not contain peculiarly shaped extensions solely to provide necessary square footage of area which would be unusable for normal purposes.
- (d) Location. Each lot, except those occupied by attached single-family dwelling units, shall abut on an existing or proposed public street. If the existing streets are not 50 feet in width, the subdivider shall make provisions, in the deeds to the lots, that all buildings be constructed so as to permit the widening by dedication of such roads or streets to a width of 50 feet or more as shown on the comprehensive plan.
- (e) Corner lots. Corner lots shall have width sufficient for adequate sight distance on both streets as determined by the administrator.
- (f) Sidelines. Sidelines of lots shall be approximately at right angles or radial to the street line.
- (g) Remnants. All property of a subdivided tract must be included in lots, or otherwise disposed of, rather than allowed to remain as unusable parcels.
- (h) Separate ownership. Where the land covered by a subdivision includes two or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership, simultaneously with the recording of the final plat. Such deed is to be deposited with the clerk of the court and held with the final plat until the subdivider is ready to record the same, and then both shall be recorded.

Sec. 58-22.7 – Blocks.

Where created by the subdivision of land, all new blocks shall be designed to comply with the following general requirements:

- (1) Generally, the maximum length of blocks shall be 1,200 feet, and the minimum length of blocks upon which lots have frontage shall be 500 feet.

- (2) Blocks shall be wide enough to allow two tiers of lots of minimum depth, unless prevented by topographical conditions or size of the property, in which case the administrator may approve a single tier of lots of minimum depth.
- (3) Where a proposed subdivision will adjoin a major road, the administrator may require that the greater dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

Sec. 58-22.8 – Land dedication.

- (a) The owner of property to be subdivided may offer to dedicate for public use 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 Town, the Commonwealth, or other public agency. No such dedication shall be effective until accepted by the Town, the Commonwealth, or other public agency by written instrument consistent with law.
- (b) The owner of property to be subdivided may convey 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.
- (c) The owner of property to be subdivided may voluntarily fund reasonable and necessary road improvements located outside the property limits of the land owned or controlled by him, the need for which is substantially generated and reasonably required by the construction or improvement of his subdivision or development. Any such funding shall comply with Virginia Code § 15.2-2242 (4).
- (d) Where a lot being subdivided or developed fronts on an existing street, and adjacent property on either side has an existing sidewalk, the owner shall dedicate land for, and shall construct, a sidewalk on the property being subdivided or developed, to connect to the existing sidewalk.

Sec. 58-22.9 – Administrator.

The Town's Zoning Administrator, as the agent for Town Council as approved and designated by the adoption of this ordinance, shall be responsible for the administration and enforcement of subdivision regulations, and shall perform all duties regarding subdivisions and subdividing in accordance with this chapter and the Code of Virginia.

Sec. 58-22.10 – Consultation.

In the performance of his duties, the administrator shall call for opinions or decisions, either verbal or written, from highway engineers, health department, or the commission, and may consult with other county or town officials in considering details of any submitted plat.

Sec. 58-22.11 – Platting required.

Any owner or developer of any tract of land situated within the town who subdivides the tract shall prepare a plat of such subdivision, in accordance with the provisions of this chapter and shall record the plat in the Circuit Court Clerk's Office per State Code § 15.2-2252. No such subdivision plat shall be recorded unless it has been submitted, approved and certified by the administrator in accordance with the regulations set forth in this chapter.

Sec. 58-22.12 – Recordation required.

No lot shall be sold in any proposed subdivision, nor shall any building permit be granted, until a final plat for the subdivision has been approved and recorded.

Sec. 58-22.13 – Where recordation is not required.

The recording of a subdivision plat under this article shall not be required in the following cases:

- (1) A partition of land by will or through actions of a court of competent jurisdiction unless or until development of the land is proposed.
- (2) When a property has been changed in size or shape by reason of the taking of a part of such property for public use by referring to a properly drawn and recorded plat, provided that the outlines and dimensions of such remainder may be clearly determined by reference to the previously recorded plats.
- (3) The sale or exchange of any parcels of land between owners of adjacent properties for the purpose of a small adjustment in boundaries, provided that additional lots are not created, and no lot is reduced below the minimum size required by this chapter.
- (4) A bona fide division of a tract of land in order that one or more of the resulting parcels may be used as a part of a public utility right-of-way; provided, that if a parcel resulting from such subdivision is ever to be used as a building site for other than right-of-way purposes, then before a building permit may be issued for such other use, a plat must be filed and recorded which satisfies the requirements of this chapter .

Sec. 58-22.14 – Draw and certify.

Every subdivision plat intended for recording, or the deed of dedication to which the plat is attached, shall be prepared by a surveyor or engineer duly licensed by the commonwealth, who shall endorse upon each plat a certificate signed by him setting forth the source of the title of the owner of the land subdivided and the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such plats, within an inset block, or by means of a dotted line upon the plat.

Sec. 58-22.15 – Statement of consent to subdivision; execution; acknowledgement and recordation; notice to commissioner of the revenue or board of real estate assessors.

Every subdivision plat, or deed of dedication to which the plat is attached, shall contain in addition to the professional engineer's or land surveyor's certificate a statement as follows: "The platting or dedication of the following described land (here insert a correct description of the land subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any." The statement shall be signed by such persons and duly acknowledged before some officer authorized to take acknowledgement of deeds. When thus executed and acknowledged, the plat, subject to the provisions of this chapter, shall be filed and recorded in the office of the clerk of court where deeds are admitted to record for the lands contained in the plat, and indexed in the general index to deeds under the names of the owners of lands signing such statement, and under the name of the subdivision. Owners shall notify the appropriate commissioner of the revenue of improvements to real property situated in platted subdivisions.

Sec. 58-22.16 – No one exempt.

No person shall subdivide any tract of land that is located within the town except in conformity with the provisions of this chapter.

Sec. 58-22.17 – Private contracts.

This chapter bears no relation to any private easement, covenant, agreement or restriction, nor is the responsibility of enforcing such private easement, covenant, agreement or restriction implied to any public official. When this chapter calls for more restrictive standards than are required by private contracts, the provisions of this chapter shall control.

Sec. 58-22.18 – Changes.

No change, erasure or revision shall be made on any subdivision plat intended for recording, nor on accompanying data sheets after the approval of the administrator has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the administrator.

Sec. 58-22.19 – Fees.

There shall be a charge for the examination of every plat reviewed. At the time of filing the preliminary plat, the subdivider shall deposit with the town checks payable to the town in the amount specified by the schedule of fees as adopted by the town.

Sec. 58-22.20 – Transfer of areas for public use.

The recording of a plat shall operate to transfer, in fee simple, to the respective counties and municipalities in which the land lies, all portions of the area platted which are set apart for streets, alleys, easements or other public use and to create a public right-of-passage over the same. Nothing contained in this section, however, shall prevent the subdivider from constructing and maintaining improvements as required by this chapter.

Sec. 58-22.21 – Approval of Major Subdivisions.

Any subdivision which involves four (4) or more lots, or which involves the creation of any new public street, regardless of the number of lots involved, shall be considered a major subdivision. Subdivisions of less than fifty (50) lots may be submitted for preliminary subdivision approval at the option of the landowner.

- (1) The Planning Commission shall review and approve or deny a preliminary plat submission within 60 days, except as otherwise provided by state law, and it shall advise the subdivider in writing, by formal letter or by legible markings on the preliminary plat, of any additional data that may be required, the character and extent of public improvements that will have to be made, an estimate of the cost of construction or improvements and the amount of the performance bond which will be required as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the performance bond, the administrator may consult with a duly licensed engineer, who shall prepare these data for the administrator, or may require a bona fide estimate of the cost of improvements to be furnished by the subdivider. Approval of the preliminary plat does not guarantee approval of the final plat.
- (2) 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 agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

- (3) The completed plat shall be submitted to the administrator for approval. Upon the approval by the administrator, the plat shall be signed by the administrator or his designated representative, marked approved, and returned to the subdivider, who will cause the plat to be recorded in the county clerk's office. If not approved, the administrator shall return the plat to the subdivider with corrections to be made by the subdivider indicated on the plat. The final plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this chapter and has made satisfactory arrangements for payment of construction costs of all public improvements or performance bond in accordance with state law, to cover such costs and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities. Approval of the final plat shall be written on the face of the plat by the administrator, and no plat shall be recorded until approval has been made.

Sec. 58-22.22 – Approval of Minor Subdivisions.

Any subdivision which involves three (3) or fewer lots shall be considered a minor subdivision.

(1) Within 60 days of a subdivision plat submission, the administrator may approve the plat by marking it with his signature and returning the plat to the subdivider, who will cause the plat to be recorded in the county clerk's office. If not approved, the administrator shall return the plat to the subdivider with corrections to be made by the subdivider indicated on the plat. The final plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this chapter and has made satisfactory arrangements for payment of construction costs of all public improvements or a performance bond in accordance with state law, to cover such costs and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities. Approval of the final plat shall be written on the face of the plat by the administrator, and no plat shall be recorded until approval has been made.

Sec. 58-22.23 – Preliminary plat requirements.

The subdivider shall present to the administrator six prints of a preliminary layout at a scale of 100 feet to the inch as a preliminary plat. The preliminary plat shall include the following information:

- (1) Name of subdivision, owner, subdivider, person preparing drawing, date of drawing, number of sheets, north point, and scale. If true north is used, the method of determination must be shown.
- (2) Location of proposed subdivision by an inset map at a scale of not less than two inches equal to one mile showing adjoining roads, their names and numbers, towns, subdivisions, other landmarks and, where appropriate, the existing zoning of the land and adjoining property.
- (3) The boundary survey or existing survey of record, provided such survey shows a closure with an accuracy of not less than 1:2,500, with reference to a known, permanent monument, total acreage, acreage of subdivided area, number and approximate area and frontage of all building sites, existing buildings within the boundaries of the tract, and the names of owners and their property lines within the boundaries of the tract and adjoining such boundaries.
- (4) All existing, platted, and proposed streets, their names, numbers and widths; existing utility or other easements; public areas and parking spaces; culverts, drains and watercourses and their names; flood profile and other pertinent data.
- (5) The complete storm drainage layout, including all pipe sizes, types, drainage easements and means of transporting the drainage to a well-defined open stream which is considered natural

- drainage, or to another approved drainage control facility.
- (6) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply. The location, type, profile, percentage of slope, pipe size, and location of manholes for all sewers shall be shown. The distance between manholes shall not exceed 300 feet. The location, type and sizes of all water lines shall be shown as well as the location of necessary control valves and fire hydrants.
 - (7) A cross section showing the proposed street construction, depth and type of base, type of surface, etc.
 - (8) A profile or contour map showing the proposed grades for the streets and drainage facilities, including the elevations of existing and proposed ground surface at all street intersections, and at points of major grade change along the center of streets, together with the proposed connecting grade lines.
 - (9) A location map tying the subdivision into the present road system, by using either aerial photographs or topographic maps of the United States Geological Survey.
 - (10) All parcels of land to be dedicated for public use and the condition of dedication.

Sec. 58-22.24 – Final plat requirements.

The subdivision plats submitted for final approval and subsequent recording shall be clearly and legibly drawn in ink upon stable and reproducible plastic or linen material at a scale not smaller than 100 feet to the inch on sheets having a size of not more than 24 inches by 36 inches. In addition to the requirements of the preliminary plat, the final plat shall include the following:

- (1) A blank space three inches by five inches, reserved for the use of the approving authority.
- (2) Certificates signed by a surveyor or engineer setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.
- (3) A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors and trustees, if any, which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds.
- (4) When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dashes, and the identification of the respective tracts shall be placed on the plat.
- (5) The accurate location and dimensions by bearings and distances with all curve data on all lots and streets, boundaries of all proposed or existing easements; parks; school sites; all existing public and private streets, their names, numbers and widths; existing utilities, and those to be provided such as sanitary sewers, storm drains, water mains, manholes and underground conduits including their size and type; watercourses and their names; and names of owners and their property lines, both within the boundary of the subdivision and adjoining such boundaries.
- (6) Distances and bearings must balance and close with an accuracy of not less than 1:10,000.
- (7) The data of all curves along the street frontage shall be shown in detail at the curve data table containing the following: delta, radius, arc, tangent, chord and chord bearings.

Sec. 58-22.25 – Recording of plat.

Unless a plat is filed for recordation within six months after final approval or such longer period as may be approved by the council, 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 council or its designated administrative agency, or where the developer has furnished surety to the governing body or its designated administrative agency by certified check, cash escrow, bond, or letter of credit in the amount required by § 58-20.21 (3) or § 58-20.22 (1), 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 council or its designated administrative agency, whichever is greater.

Sec. 58-22.26 – Exception.

Where the subdivider can show that a provision of this chapter would cause substantial injustice or hardship if strictly adhered to, because of topographical or other unusual situation peculiar to the site, and where, in the opinion of the administrator, a departure may be made without destroying the intent of such provisions, or endangering public health, safety or welfare, the administrator may authorize an exception. Any exception thus authorized shall be stated in writing by the administrator, with the reasoning set forth upon which the departure was justified. No such exception to this chapter may be granted if it is opposed in writing by an authorized state official.

Sec. 58-22.27- Family subdivisions.

Family subdivisions shall comply with this chapter and other laws and regulations of the town. In addition, all family subdivisions resulting in lots of less than five acres shall have reasonable right-of-way of not less than 10 feet or more than 20 feet width providing ingress and egress to a dedicated recorded public street or thoroughfare. Only one such division shall be allowed per family member, and shall not be for the purpose of circumventing this section. For the purpose of this section, a member of the immediate family is defined as any person who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent of the owner.

Attachment: 8.04 ZTA Updates_Strikethroughs (5156 : ZTA - Final Draft)



Emily K. Lockhart
Town Planner and Zoning Administrator

MEMORANDUM

TO: Planning Commission

FROM: Emily K. Lockhart

DATE: August 11, 2021

SUBJECT: Updated Staff Report for SUP#2021-001; Special Use Permit Application Restaurant, Drive - In Application

Application Summary and Background:

Applicant, Haymarket Development #1 LLC, has applied for a Special Use Permit for Restaurant, Drive-in to be located at the Crossroads Village Center development, 15150 Washington Street and 6500 James Madison Highway. The proposed Special Use Permit would be for a restaurant with a drive through window. The proposed restaurant will occupy a **single tenant, 2,250 square foot building**.

The development property in question has previously applied for a Rezoning and several Special Use Permits in 2018. In September of 2018, the Town Council passed a Resolution granting the Rezoning of 9.94 acres from a B-2 zoning to a R-2 zoning. In addition, several SUPs were granted by Resolution for the following; a hotel structure in excess of 50 feet, a drive through restaurant at the eastern most pad site, a drive through restaurant at the central pad site and a bank drive through. The applicant subsequently applied for a site plan and was granted approval (See Appendix, B for Site Plan). The approved development includes 79 townhouses in the north eastern most corner of the property on the 9.94 acres rezoned to R-2. In front portion of the development includes a variety of pad sites and previously approved special use permits, as mentioned above. At the time of the rezoning the applicant submitted a Traffic Impact Analysis for the proposed uses and rezoning. The traffic impact analysis previously submitted can be viewed at the Town Planner's Office.

Recently, the applicant applied for a drive-in, restaurant special use request for the space parcel and was denied by the Town Council in June of 2021. Please see the attached Council Minutes at the end of the Staff Report.

In response, the applicant has filed a new Special Use Permit Application for a drive-thru restaurant on July 12, 2021. The new application includes a modified layout for the site, a single tenant building and a standalone exit for the drive-thru portion.

The applicant has provided a Generalized Development Plan (GDP) illustrating the proposed restaurant, drive-thru, parking and general layout in relation to the development. See attached GDP July 2021.

The Town Planner is in support of the Special Use Permit Application as presented. The applicant has addressed concerns regarding the entry/exit to the business, the pedestrian connections, an additional exit point on the main boulevard from the grocery store parcel, removal of the second tenant space, additional space for stacking vehicles, and a standalone exit for the drive-through. Please refer to the analysis below for a detailed description of the findings and the recommendation.

The Planner would like to discuss with the applicant the location of the dumpster. Planner would like to explore the options for removing the dumpster from the frontage of the building. Planner would like to discuss with the Planning Commission the proposed use condition within the "Proposed Special Use Permit Conditions" document.

Town of Haymarket Zoning Ordinance, Section 58 - 1.7 Special Uses Analysis;

Section 58-1.7, Special uses

- (1) *The proposed use at the stipulated location shall be in accordance with the official policies of an adopted comprehensive plan, and with any specific element of such plan.*
- (2) *The proposed use shall be in accordance with the general purpose and intent of the applicable zoning district requirements.*
- (3) *The proposed use shall not adversely affect the use or values of surrounding properties and structures.*
- (4) *The proposed use shall not adversely affect the health, safety or general welfare of persons residing or working in the neighborhood.*
- (5) *Pedestrian and vehicular traffic generated by the proposed use shall not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.*
- (6) *Utility, drainage, parking, loading and other necessary facilities provided to serve the proposed use shall be adequate.*

Town Planner Analysis -

- (1) *The proposed use at the stipulated location shall be in accordance with the official policies of an adopted comprehensive plan, and with any specific element of such plan.*

The Town's Comprehensive Plan designates the area in question as Planned Interchange Park. The Planned Interchange Park designation is defined as *Business and commercial activities which generally depend on a trade area larger than the immediate neighborhood.* (Comprehensive Plan, page 8). As mentioned in the definition the activities occurring in this zoning district will rely on the greater Haymarket area for the customer base rather than the immediate neighborhood.

Furthermore, the Planned Interchange Park area was a concept proposed by Prince William County and endorsed in the 2008 Town Comprehensive Plan as follows; *The concept revolves around the idea that highway-oriented development needs to be planned as a whole. More than half of the 41 + acres in the Planned Interchange Park remain undeveloped. The key to the approach as developed by the Town Planning Commission is cluster development that includes a mix of commercial, office, professional and retail uses around common parking facilities. Vehicle access would be carefully designed and adequate landscaping and screening would be required to minimize potentially adverse impacts on surrounding land uses. Approximately 45 acres are designated for this land use which represents 12 percent of the total Town land area.* With this concept and definition in mind, it becomes clear that the intent of the district is to encourage the mix of commercial (to include retail) and professional uses in the area that will benefit from the prominent location that is central to the greater Haymarket/Gainesville Area and a major travel route to and from adjoining counties.

The proposed special use application for the restaurant, drive-through in the Planned Interchange Park is in accordance with the Comprehensive Plan as it does provide a commercial use to support the greater area.

- (2) *The proposed use shall be in accordance with the general purpose and intent of the applicable zoning district requirements.*

The proposed use is located in the B-2, Business Commercial Zoning District, as designated by purple shading on the Current Land Use Map (Appendix C). The intent of the Business Commercial district is as follows;

“ARTICLE XI. - BUSINESS COMMERCIAL DISTRICT B-2

Sec. 58-11.1 - Intent. *The primary purpose of the business commercial district B-2 is to concentrate businesses in a coordinated manner and to provide for more intense commercial and industrial uses away from the Town center. Commercial uses located in this district, while traditionally being oriented to automobile traffic, are intended to have a sufficiently high standard in site layout, design and landscaping to minimize traffic congestion on accessory roadways and minimize the impact of the high volume of traffic at an interchange with adjacent land uses.”* (Town Zoning Ordinance, page 70).

The proposed restaurant, drive-in use provides a commercial restaurant business to support the commercial neighborhood. The proposed use is an appropriate use for the commercial zoning designation. The land in question has been zoned B-2 and designated as Planned Interchange Park to allow the Town an area for higher intensity commercial and

professional uses that would be supported by the major Route 15/Interchange 66 interchange and greater Haymarket area. Providing uses in keeping with the intent would allow the Town the opportunity to grow the commercial tax base and diversify the commercial/professional/retail-based businesses in the area.

- (3) *The proposed use shall not adversely affect the use or values of surrounding properties and structures.*

Without the appropriate economic development studies, it is difficult to say that proposed use would or would not adversely affect the use or values of surrounding properties and structures. While the proposed use and the other approved improvements in the development would increase property values in the area and increase tax base, the long-term effect is unknown.

- (4) *The proposed use shall not adversely affect the health, safety or general welfare of persons residing or working in the neighborhood.*

The proposed use shows no indication of adversely affecting the health, safety, or general welfare of the adjacent properties or surrounding residential communities. However, there is indication that the parking layout, single entry/exit for the newly proposed use and the drive-through circulation may affect the surrounding businesses should the use be approved, and the stacking exceed expectation.

- (5) *Pedestrian and vehicular traffic generated by the proposed use shall not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.*

The proposed use will be located in the central area along Washington Street and will be accessed via the main boulevard or a right-in/right-out entry near the site as proposed in the GDP. The previously approved site plan, Appendix B, designated a main entry Boulevard (with a stop light) and several right-in-only and right-out-only access points are located along Washington Street. These access points are intended for the commercial buildings/uses in that immediate area customers are accessing. The proposed restaurant, drive-through would utilize the western most access point or the stop light (and "snaking" through the grocery store parking lot) to access the pad site.

There is concern that the users would need to "snake" through the grocery parking lot or travel the main travel way in front of the store to access the restaurant. Appropriate stop signs, pedestrian crosswalks and other safety measures will need to be put in place for safe travel.

The proposed use will generate high volumes of vehicle trips per day, based on popularity of the proposed use. The applicant has stated the proposed use will be a popular coffee shop. The updated traffic impact statement shows that the am and pm peak hours will generate 298 trips total (200 in the am and 98 in the pm). The layout and drive-through circulation shall be taken into consideration regarding the congestion. There is concern that the front spaces (to include the handicap spaces) could be blocked

due to drive-through backups, however the applicant has redesigned the layout to allow for two stacking lanes. Area coffee shops with drive-throughs have shown to be very popular with area residents and ultimately demonstrate the need for adequate layout planning.

- (6) *Utility, drainage, parking, loading and other necessary facilities provided to serve the proposed use shall be adequate.*

Utilities, drainage, loading zones and other necessary facilities will be required at the site plan phase. Currently, Prince William County Service Authority has approved the previously submitted site plan for the appropriate water/sewer utilities. In the outside agency review phase PWCSA stated the new plan would be required to resubmit for any site plan amendments. Same statement was submitted for Department of Environmental Quality.

Parking -

The applicant has provided 23 parking spaces per the required parking ordinance of 1 space/100 sq ft for a restaurant. The proposed use parking is designated by the grayed-out portion on the GDP. There are 2 handicap spaces within those designated for the SUP. No stacking spaces are shown on the GDP. The restaurant with a drive through will require 10 stacking spaces (6 spaces behind the speaker box, 4 between the pick-up window and speaker box). Applicant has provided 15 total stacking spaces, to include 6 behind the window and 4 behind the speaker box.

There are 2 pedestrian connections shown for the parking lot. One across the main entry and one within the parking lot.

Other Concerns

Will u-turns be permitted at the stop light? Prior to the stop light being installed please explain the traffic pattern for users approaching from the west to enter the site.

No environmental analysis or stormwater calculations provided.

Outside Agency comments not provided for most recent, July 2021, updated Special Use Permit Application

General Development Plan Comments:

- **Existing Conditions not provided on the GDP. (Existing Conditions - undeveloped raw land)**
- **Parking**
 - Explain the justification for the current parking layout.
- **Conditions of Approval**
 - Conditions provided within the application

- No additional proffers or conditions of approval provided or considered for Schools, Fire Department, Public Safety, Transportation

Planner Recommendation:

As the proposed Special Use Permit is presented currently, the Town Planner is in support of the proposed use however, there are areas of concern that need to be discussed prior to an approval, such as the proposed use condition. The proposed restaurant, drive-through meets the intent of the Planned Interchange Park designation from the Comprehensive Plan or the intent of the Business Commercial Zoning District (B-2). The proposed development has triggered concerns regarding the parking, the drive through travel way, the potential for congestion on site, the pedestrian access to the building, and the access from Washington Street. Prior to any recommendation these concerns should be addressed by the applicant.

It is the Town Planner's recommendation that the Planning Commission hold the public hearing to hear Citizen Comments and discuss the Planner's concerns and citizen concerns with the applicant.

- Check Appropriate Item(s):
- Amendment to Zoning Map
 - Zoning Text Amendment
 - Special Use
 - Variance
 - Appeal of Administrative Decision

Office Use Only:

Date Received: 7-12-2021

Application Number: _____

Fees Received: 7-12-2021

Check # 11092

Part 1 – to be completed by ALL applicants

1-A Identification of Property – For zoning text amendments, this is the property in which the applicant has an interest, which will be affected by the text change. For all other applications, it is the land, which is covered by the application.

- 1) Number and Street: 15150 Washington St. (part)
- 2) Present Zoning: B-2 3) Acres: 0.8363
- 4) Legal Description of Property (Omit for zoning text amendment) – Attach if necessary.

1-B Property – (Omit for zoning text amendments)

- 1) The deed restrictions, covenants, trust indentures, etc. on said property are as follows (or copy attached); if NONE, so state: _____
- 2) a) Has this property or any part thereof ever been considered for Variance, Special Use, Appeal of Administrative Decision or Amendment to the Zoning District Map before?
 YES NO
 b) Date: 9/4/18 c) Former Application No. _____
 d) What was the disposition of the case? _____
 e) Former Applicant Name: Same
 Former Address: _____
 Former Phone: _____

1-C Identification of Applicant – All applicants must have standing (an interest in property that will be directly affected by requested action)

- 1) Applicant Information:
 Name: Highmarket Development #1, LLC c/o Dan Wooder
 Address: 1602 Village Market Blvd SE, Leesburg, VA 20175
 Phone Number: 571-375-1750
- 2) Agent Information (if any):
 Name: _____
 Address: _____
 Phone Number: _____
- 3) Owners of all property included in this application (omit for zoning text change):
 Name: Same
 Address: _____
 Phone Number: _____
 Name: _____
 Address: _____
 Phone Number: _____

Attachment: 20210811162830 (5155 : Crossroads Village Center Special Use Permit SUP2021-003)

Name: _____

Address: _____

Phone Number: _____

Name: _____

Address: _____

Phone Number: _____

- 4) If applicant is a Land Trust or Partnership or if the subject property is owned or controlled by a Land Trust or Partnership, List name and interest of **ALL** Land Trust Beneficiaries or Partners and attach evidence that the person submitting the application on behalf of the Land Trust or Partnership is authorized to do so.

Trustee/Partner Name: _____

Address: _____

Phone Number: _____ Interest: _____

Beneficiary/Partner Name: _____

Address: _____

Phone Number: _____ Interest: _____

Beneficiary/Partner Name: _____

Address: _____

Phone Number: _____ Interest: _____

- 5) Does the applicant have a proprietary interest in the land or land improvements? YES NO

(In the case of a zoning text amendment, this means at least one parcel of land is subject to the text change)

If YES, state interest and attach documentation: _____

If NO, state what interest otherwise qualifies the applicant to apply: _____

- 6) Names of the owners of improvement(s) on the property in this application if different from above: (Omit for zoning text amendment)

Name: _____

Address: _____

Phone Number: _____

Name: _____

Address: _____

Phone Number: _____

Name: _____

Address: _____

Phone Number: _____

- 7) If the applicant is a corporation, attach the evidence that the person submitting the application on behalf of the corporation is authorized to do so.

See Authorization letter dated _____

Part 2 – Complete **ONLY** portion(s) of Pages 3, 4 & 5 pertaining to your case. (as checked at top of Page 1)

2-A Rezoning – (Amendment to the zoning district map) – Applications for Amendments to the Zoning District Map are heard by the Planning Commission which makes a positive or negative recommendation to the Town Council. Only the Town Council has authority to grant or deny amendments to the Zoning District Map.

Attachment: 20210811162830 (5155 : Crossroads Village Center Special Use Permit SUP2021-003)

- 1) a) Existing Zoning: _____ b) Proposed Zoning: _____
c) Existing Use: _____
d) Proposed Use: _____
- 2) a) The following are submitted with this application:
 Preliminary Site Plan Rendering or Perspective Other
b) Are there any land use intensity (LUI) requirements? YES NO
c) Attach brief justifying this request. This brief should include an analysis of how the rezoning application is supportive or not supportive of relevant goals, objectives, policies or programs in the Comprehensive Plan. (Staff will assist.)

2-B Zoning Text Amendment – Applications for amendments to the zoning text are heard by the Planning Commission, which makes a recommendation to the Town Council. Only the Town Council has the authority to change the zoning text, which is done by passing an amendment to the Town Code.

- 1) What section(s) of the Town Code is proposed to be amended? _____
- 2) What is the nature of the proposed change? _____
- 3) Attach the exact language suggested by the application to be added, deleted, or changed in the Town Code.
- 4) Attach a written statement, which justifies the proposed change. The statement should also identify potential positive and negative impacts (if any) of the proposed change to the applicant's property, nearby properties, and the entire community if the application is approved or if it is denied.

2-C Special Use Request – Special Use requests are heard by the Planning Commission, which makes a positive or negative recommendation to the Town Council. Only the Town Council has the authority to grant or deny a Special Use.

- 1) Are development plans submitted with this application? (Staff member will explain.) YES
 NO
- 2) Parking Requirements:
a) Proposed number of parking spaces to be provided: 23
b) Number of parking spaces required by Town Code: 23
c) Attach tabulation of total land area and percentage thereof designated for various uses
d) Are there any land use intensity (LUI) requirements? YES NO
If YES, attach data.
- 3) Estimated cost of proposed Special Use project:
a) Land: \$ 200,000 Improvements: \$ 1,300,000
b) Estimated completion date: 7/30
- 4) Submit a brief justifying the reasons for this request. This brief should include an analysis of how the rezoning application is supportive or not supportive of relevant goals, objectives, policies or programs in the Comprehensive Plan. (Staff will assist.)

2-D Variance Request – Variances are granted or denied by the Zoning Board of Appeals (ZBA). Reversal of ZBA decisions may be secured only through the judicial system.

- 1) a) All information required may be shown on one sheet if appropriate.
b) Check characteristic(s) of the property preventing it from being used in accordance with the terms of the Town Code (Zoning Ordinance):
 Too Narrow Elevation Soil

- Too Small Slope Subsurface
- Too Shallow Shape Other (Attach specifics)
- c) Attach a description and/or drawings of the item(s) checked, giving dimensions were appropriate.
- 2) Attach requirements for the appropriate zoning district from which relief is sought as described in the Town Code.
- 3) Attach a brief explanation how the above site zoning conditions prevent any reasonable use of the land under the terms of the Town Code (Zoning Ordinance).
- 4) a) To the best of your knowledge, can you affirm that the hardship described above was not created by an action of anyone having proprietary interest in the land after the zoning article or applicable part thereof became law? YES NO
b) If NO, explain why the hardship should not be regarded as self-imposed (self-imposed hardships are not entitled to variance).

- c) Are the conditions on the property the result of other man-made changes (such as relocation of a road or highway, etc.)? YES NO
d) If YES, attach descriptions and maps where appropriate.
e) Do the above-described conditions of hardship for which this request for variance is filed apply only to this property? If YES, attach an explanation. YES NO
- 5) Which of the following modifications will allow a reasonable use of the land?
 Change in the setback requirements change in lot coverage requirements
 Change in height requirements change in area requirements
 Other (attach description)
- 6) a) Attach description of proposed use.
b) Is proposed use permitted in the zoning district? YES NO
c) Will the granting of a variance in the form requested be in harmony with the general purpose and intent of the zoning article and district statement of intent and not be injurious to the neighborhood or detrimental to the public welfare? YES NO
d) Attach a brief elaborating on this last point.

2-E Appeal of Administrative Decision – Administrative decisions are reviewed by the Zoning Board of Appeals (ZBA). Such administrative decisions may be reversed or sustained by the ZBA. Reversal of ZBA decision may be secured only through the judicial system.

- 1) Date of administrative decision leading to this appeal: _____
- 2) Attach a brief, which specifically states the decision the administrative official made, the reasons given for the decision and specifically what you are herewith appealing. Elaborate on the reasons for this request, and why the Zoning Board of Appeals in your opinion should overrule the administrative official’s decision.

Part 3 – To be completed by ALL applicants

AFFIDAVIT – This part of the application must be notarized. Do not sign until in the presence of a Notary Public.

1) To the best of my knowledge, I hereby affirm that all information in this application and any attached material and documents are true:

a) Signature of **applicant**: _____

b) Signature of **agent** (if any): _____

c) Date: 07/18/21

Notary Seal

2) a) Signed and sworn before me this: _____

b) Signature of **Notary**: _____



Crossroads Village Center

Haymarket Development 1, LLC

1602 Village Market Blvd. SE, Suite 235
Leesburg, Virginia 20175

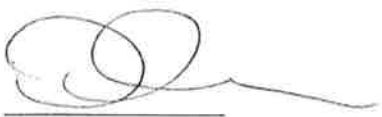
O: (571) 375.1750

July 12, 2021

Re: Letter of Authorization

Dear Ms. Lockhart:

Haymarket Development #1, LLC authorizes the submission of this application. Don Wooden in his capacity as the Manager has authority to sign and take action on behalf of Haymarket Development #1, LLC



Don Wooden

Manager, Haymarket Development #1, LLC

Attachment: 20210811162830 (5155 : Crossroads Village Center Special Use Permit SUP2021-003)

Statement of Justification

Special Use Permit Application
Crossroads Village Center
Owner/Applicant: Haymarket Development #1, LLC
Property: 15150 Washington Street (part)
Prince William County GPIN: 7298-81-2707 (part)
Proposed Use: Restaurant, Drive-in
Dated: July 12, 2021

Introduction: The Applicant, Haymarket Development #1, LLC (the "Applicant") is the owner of property located at 15150 Washington Street and identified as Prince William County GPIN 7298-81-2707 (the "Property"). The Property is approximately 20 acres in size and located in the northwestern portion of the Town of Haymarket (the "Town") along Washington Street and south of the Interstate 66 and Route 15 interchange.

The Property is zoned B-2, Business Commercial, and R-2, Residential, and is designated as Planned Interchange Park on the Town's Planned Land Use Map, last revised November 16, 2015. The Property is surrounded by B-2 zoned property to the west, the Interstate 66 and Route 15 interchange to the north, and a mixture of R-1, R-2, and B-1 zoning districts to the east. The Property is surrounded by properties designated as Planned Interchange Park to the west, and a combination of Moderate Density Residential, Transitional Commercial, and Neighborhood / Town Center to the east. The Property is currently undeveloped and remains the largest undeveloped tract in the Town.

On September 4, 2018, the Town Council adopted Resolution #2018-010 approving REZ#2018-004 to rezone 9.94 acres of the Property from B-2 to R-2 to allow for development of 79 townhomes. On that same evening, the Council also adopted Resolution #2018-012 approving SUP#2018-007 to authorize a bank with a drive-in. The Council approved other special use permits for the Property that same evening including: Resolution #2018-011 approving SUP#2018-005 to allow a structure in excess of 50 feet for a hotel; Resolution #2018-014 approving SUP#2018-003 to allow a restaurant with a drive-in; and Resolution #2018-015 approving SUP#2018-004 to allow a second restaurant with a drive-in.

A site plan for the development of the Property was approved previously. The proposed special use permit, along with other changes to the development layout require an amendment to that site plan, which will be filed with the Town shortly after the special use permit applications.

Proposed Use: The Applicant seeks this special use permit to allow for a restaurant, drive-in, to replace the bank with a drive-in, effectively amending the previous Special Use Permit to change the use from a bank to a restaurant, while maintaining the drive-in. A special use permit plan entitled "Restaurant with a Drive-in Special Use Permit Plan – Crossroads Village Center,"

Attachment: 20210811162830 (5155 : Crossroads Village Center Special Use Permit SUP2021-003)

prepared by J2 Engineers, dated July, 2021 (the "SUP Plan") is included with this submission. As shown on the SUP Plan, the proposed restaurant and the associated improvements will occupy the parcel identified within the SUP Boundary (the "SUP Area").

Special Use Permit Considerations

Section 58-1.7 (d) of the Town's Zoning Ordinance sets forth certain standards to be considered when approving a special use permit. Below is an analysis as to how the proposed special use permit meets these standards.

(1) The proposed use at the stipulated location shall be in accordance with the official policies of an adopted comprehensive plan, and with any specific element of such plan.

The Property is designated as Planned Interchange Park. The Town's Comprehensive Plan recommends that major commercial growth be limited to those areas designated as Planned Interchange Park and Town Center. Page 89, Town of Haymarket Comprehensive Plan. The Planned Interchange Park designation was created with the intent of designing a cohesive development around the I-66 and Route 15 interchange. The Property represents nearly half of the Town's acreage designated as Planned Interchange Park and remains the only undeveloped portion of that designation. As shown by the prior approved GDP, this proposed use and overall development aligns with the Town's intent by using the land to create a cohesive and vibrant mixed use development.

Planned Interchange Park specifically seeks cluster development that includes a mix of commercial, office, professional and retail uses, around common parking facilities. Page 92, Town of Haymarket Comprehensive Plan. The proposed restaurant, drive-in supports this goal. Additionally, the prior approved GDP shows a mix of commercial, retail and potential office uses which are permitted by-right in B-2 and further align the proposed use and overall development with the goals of the Planned Interchange Park designation.

One of the Town's stated goals is to: "[d]evelop and support opportunities for local employment. Fortify the Town's financial condition so that it can meet growing demands for services." Page 80, Town of Haymarket Comprehensive Plan. A stated objective of the Town to achieve this aforementioned goal is to "[e]ncourage and support commercial, industrial, and service activity in Haymarket." Page 80, Town of Haymarket Comprehensive Plan. The proposed special use permit advances this goal by authorizing a restaurant that will create jobs and increase the Town's commercial tax base. This will bolster the Town's financial position by increasing the commercial tax base, and creating local employment opportunities.

Section 2.7 of the Town's Comprehensive Plan states that the goal is to "develop a balanced program for future land use to promote the public health, safety and general welfare." An objective to achieve this goal is to ensure compatibility of land use while protecting residential areas from adverse aspects of commercial use. Page 81, Town of Haymarket Comprehensive Plan. The proposed restaurant, drive-in is compatible with the other

commercial uses internal to the overall development as well as the other commercial uses along Washington Street.

(2) The proposed use shall be in accordance with the general purpose and intent of the applicable zoning district requirements.

While the Property is zoned B-2 and R-2, the SUP Area is located within the B-2 zoned portion. Restaurants are permitted by-right in B-2, but a restaurant with a drive-in requires a special use permit. Generally, drive-ins require a special use permit throughout the Town.

B-2 is a commercial zoning district whose primary purpose is to concentrate businesses in a coordinated manner and to provide for more intense commercial uses away from the Town center. The SUP Area is a small portion of the larger development envisioned on the Property, as shown on the prior approved GDP. The GDP demonstrates that the B-2 portion of the Property concentrates businesses in a coordinate manner to function with one another and the surrounding uses. This aligns with the intent of the B-2 district.

(3) The proposed use shall not adversely affect the use or values of surrounding properties and structures.

The proposed restaurant, drive-in is not anticipated to adversely affect the values of surrounding properties and structures. In fact, this type of commercial development, along with the other components of the overall development, should positively affect the values of surrounding properties by increasing the commercial tax base within the Town and creating jobs. The overall development shown on the GDP Plan will also create a commercial and residential hub that should attract future businesses to locate nearby and within the Town.

As part of the larger development, the proposed use will have substantial landscaping and screening between its internal uses as well as the surrounding properties. The landscaping and screening is provided in accordance with Town Code requirements and will allow for the proposed use and overall development to be compatible with the surrounding properties and structures. As a result, the Applicant does not anticipate that the proposed use will have an adverse effect on the use or values of surrounding properties.

(4) The proposed use shall not adversely affect the health, safety or general welfare of persons residing or working in the neighborhood.

The restaurant, drive-in use will replace a bank with a drive-in that was previously approved by the Town. It is not anticipated to adversely impact the health safety or general welfare of the persons residing or working in the neighborhood. Commercial uses will surround the proposed use, as displayed by the prior approved GDP. The adjacent properties along Washington Street are also commercial making the proposed drive-in use compatible with these existing uses. Additionally, the proposed use and overall commercial development aligns with the Town's Comprehensive Plan and, therefore, its vision for this area further suggesting

that it will not have an adverse effect on the health, safety or general welfare of persons residing or working in the area.

(5) Pedestrian and vehicular traffic generated by the proposed use shall not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

The pedestrian traffic generated by the proposed uses should not be hazardous due to the sidewalk system proposed by the Applicant. These sidewalks will provide greater pedestrian connectivity to the Property, its commercial uses, and throughout the Town. Only a portion of the Property's frontage presently has a sidewalk. The Applicant proposes to connect to the existing sidewalks along Washington Street and provide one of the last outstanding sidewalk connections along this thoroughfare. This, along with the significant pedestrian facilities internal to the proposed development, will create increased pedestrian mobility and safety within the Town.

(6) Utility, drainage, parking, loading and other necessary facilities provided to serve the proposed use shall be adequate.

Stormwater management will be provided in accordance with applicable state and local regulations. The proposed special use permit is not anticipated to cause any change to the SWM previously approved by site plan for the Crossroads Village Center. The proposed use will be connected to public water and sewer, the final design of which will be determined during site plan review for the amendment to the site plan.

Sec. 58-6.1 of the Town's Zoning Ordinance requires 1 parking space per 100 sq. ft. of gross floor area for a freestanding drive-in restaurant. The proposed restaurant, drive-in is approximately 2,250 square feet, which would require 23 parking space and is the amount proposed by the Applicant. The gross floor area for the proposed use does require a loading space per town standards. Based on this information, the necessary facilities provided to serve the proposed use will be adequate.

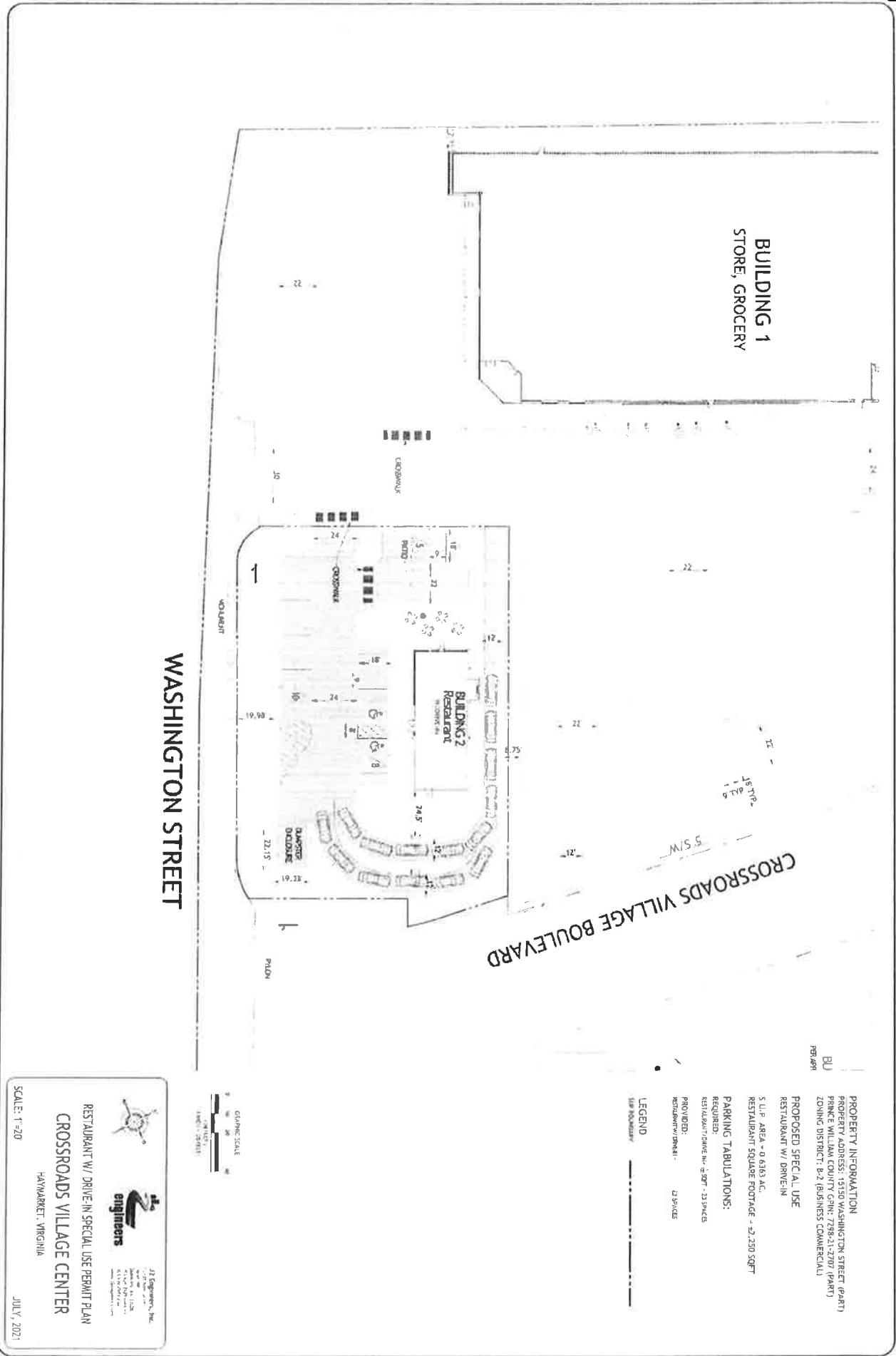
Conclusion:

The proposed restaurant, drive-in simply seeks to repurpose a previously approved commercial drive-in that the Town deemed appropriate for this location. Additionally, the proposed use and overall development is consistent with the goals and objective of the Town's comprehensive plan. As a result, the Applicant suggests that the proposed use is compatible with the surrounding uses, will increase the Town's commercial tax base, attract future businesses, and develop one of the last undeveloped portions of the Town.

PROPOSED SPECIAL USE PERMIT CONDITIONS
Owner/Applicant: Haymarket Development #1, LLC
Special Use Permit: _____, Restaurant W/ Drive Thru
Prince William County GPIN: 7298-21-2707 (part)
Special Use Permit Area: +/- 0.6363 acres (the "Property")
Zoning: B-2, Business Commercial
Date: July 12, 2021

The following conditions are intended to render the application consistent with the applicable chapters of the Comprehensive Plan and the surrounding areas.

1. **Site Development:** The Property shall be developed in conformance with the special use permit plan entitled "Restaurant W/ Drive-in Special Use Permit Plan – Crossroads Village Center," prepared by J2 Engineers, and dated July, 2021 (the "SUP Plan").
2. **Use Limitations:** The use approved with this special use permit shall be limited to a drive-in facility in connection with a by-right restaurant use.
3. **Directional Signage:** The Applicant shall provide one (1) directional sign as shown generally on the SUP Plan.
4. **Pedestrian Crosswalks:** The Applicant shall provide pedestrian crosswalks as shown generally on the SUP Plan.



Traffic Signal Timing (Design/Installation)*

Comments

Signal Justification Report Submitted for Main Site Access	Completed
Approvals Received for Signal Warrant/SJR from VDOT	Completed
Preliminary Signal Layout Completed	Completed
Traffic Signal Design Commencement (Preliminary & Final)	Planned to commence in the next 30-90 days
Traffic Signal Installation Work Commencement**	Planned to commence in Q1/Q2 2022
Traffic Signal Installed	Planned to complete in Q3/Q4 2022

*Overall signal design/installation timing is dependent on VDOT review/approval timing

**Assumes overall development to commence summer 2021

Manassas Sudley Manor Peak

M – F: 7am-9am

Sat – Sun: 9am-11am

Typical Stack during peak* - 11-12 cars

Route 29 N-Warrenton Peak

M – F: 7am-9am

Sat – Sun: 9am-11am

Typical Stack during peak* - 11-12 cars

** Pre-Pandemic (Pre 2020/2021- Café areas inside our stores will reopen by the end of May 2021)*

Source: Starbucks Corp.



Starbucks Statistics – Warrenton & Manassas, VA

TECHNICAL MEMORANDUM

To:	Emily Lockhart	Town of Haymarket
Cc:	Don Wooden	Meladon Management Partners
	Brian Prater	Walsh, Colucci, Lubeley & Walsh
From:	Steven Matthew Dauterman, EIT, RSP1	Gorove Slade Associates
	Niraja Chandrapu, PE, PTOE	Gorove Slade Associates
	Chad Baird	Gorove Slade Associates
Date:	November 13, 2020	
Subject:	Crossroads Village Center – Trip Generation Comparison	

Introduction

This memorandum presents the finding of a trip generation comparison assessment conducted for the Crossroads Village Center development within the Town of Haymarket, Virginia. The assessment was conducted to evaluate a proposed change in the forecasted trip generation for the site by comparing the Application’s original development program under REZ 2014-1029 with a modified development program that is under consideration.

As illustrated in this memorandum, the change in trip generation association with the modified development program proposed is anticipated to either decrease peak hour trips or have a negligible impact on the surrounding road network. Therefore, the findings and conclusions of the approved traffic impact study (TIS) that was conducted for REZ 2014-1029, (titled *Traffic Impact Study – Crossroads Village Center* and last revised on June 7, 2018) would overall remain valid.

Modification of Development Program

The Crossroads Village Center development is primarily situated north of Washington Street (Route 55), south of Interstate 66, east of James Madison Highway (Route 15), and west of Fayette Street (Route 1301).

Previously under REZ 2014-1029, the proposed development was anticipated to consist of approximately 79 townhomes, 32.227 kSF of general retail space, a 110-room hotel, a 10 kSF daycare facility, 8 kSF of fast-food with drive-thru uses, and a 3,500 kSF drive-in bank. Given changes in market conditions and interested future users for the site, ultimately development program of the site has been refined and now includes: 79 townhomes, 78 two-over-two’s, 11.899 kSF of general retail space, a 31 kSF supermarket, 5.832 kSF of fast-food with drive-thru uses, and a 2.38 kSF drive-thru coffee and donut shop.

Trip Generation Comparison

In order to calculate the trips generated by the development and compare the two development programs, the Institute of Transportation Engineers’ (ITE) Trip Generation Manual (10th Edition) publication was used to determine the trips going into and out of the development during the weekday morning (AM), weekday afternoon (PM), and Saturday midday (SAT) peak hours, as well as, the typical number of weekday daily trips associated with the site.

Table 1 illustrates the trip generation for the original development program approved under the REZ 2014-1029 application; **Table 2** illustrates the trip generation for the development program that is currently being considered. A comparison of the development programs is illustrated in **Table 3**. Of note, for the purposes of this assessment, both **Table 1** and **Table 2** include reductions due to internal trip captures between the residential and non-residential uses and pass-by trips (consistent with the approved TIS) in order to assess the net change in external trips that would be anticipated on the future road network.

Attachment: 20210811162830 (5155 : Crossroads Village Center Special Use Permit SUP2021-003)

Table 1: Site Trip Generation – Approved Development Program

Approved Land Use (used in the approved TIA)	ITE Code	Size	Weekday						Weekend			
			AM Peak Hour			PM Peak Hour			Daily Total	Saturday Peak Hour		
			In	Out	Total	In	Out	Total		In	Out	Total
Residential Uses												
Multifamily Housing (Low-Rise)	220	79 DU	9	29	38	30	18	48	556	26	26	52
Subtotal Residential without Reductions			9	29	38	30	18	48	556	26	26	52
Non-Residential Uses												
Shopping Center	820	10,227 kSF of GLA	104	84	168	113	123	236	2,784	132	122	254
Hotel	310	176 Rooms	30	20	50	29	27	56	815	45	35	80
Daycare	565	19,779 kSF of GFA	58	52	110	52	58	111	476	11	6	17
Fast-Food Restaurant with Drive-Thru Window	934	4,000 kSF of GFA	164	158	322	136	125	261	3,768	224	215	439
Drive-In Bank	912	3,500 kSF of GFA	19	14	33	36	36	72	407	47	45	92
Subtotal Non-Residential without Reductions			376	307	682	366	371	737	8,250	459	423	882
Internal Capture (15% Residential to Commercial)			-2	-4	-6	-4	-3	-7	-83	-4	-4	-8
Pass-By (24%AM, 34% PM, 24% daily, and 26% Saturday)			-25	-15	-40	-38	-42	-80	-668	-34	-32	-66
Subtotal with Reductions			357	317	674	354	344	698	8,055	447	413	860

Table 2: Site Trip Generation – Proposed Development Program

Proposed Land Use (Current Plan)	ITE Code	Size	Weekday						Weekend			
			AM Peak Hour			PM Peak Hour			Daily Total	Saturday Peak Hour		
			In	Out	Total	In	Out	Total		In	Out	Total
Residential Uses												
Multifamily Housing (Low-Rise)	220	79 DU	9	29	38	30	18	48	556	26	26	52
Multifamily Housing (Mid-Rise)	221	78 DU	7	20	27	21	14	35	423	19	20	39
Subtotal Residential without Reductions			16	49	65	51	32	83	979	45	46	91
Non-Residential Uses												
Shopping Center	820	11,879 kSF of GLA	98	80	158	54	58	112	1,414	60	55	115
Supermarket	850	31 kSF of GFA	71	47	118	166	160	326	3,410	201	184	385
Fast-Food Restaurant with Drive-Thru Window	934	4,000 kSF of GFA	119	115	234	88	92	181	2,747	163	157	320
Coffee/Donut Shop with Drive-Thru Window*	937	2,380 kSF of GFA	108	104	212	62	51	103	1,953	88	97	185
Subtotal Non-Residential without Reductions			396	326	722	371	361	732	9,524	522	503	1,025
Internal Capture (15% Residential to Commercial)			-2	-7	-11	-8	-5	-12	-147	-7	-7	-14
Pass-By (24%AM, 34% PM, 24% daily, and 26% Saturday)			-41	-26	-66	-75	-74	-149	-1,158	-68	-65	-133
Subtotal with Reductions			360	313	672	310	296	606	8,642	466	451	918

Table 3: Comparison of Development Programs

Approved - Proposed	ITE Code	Size	Weekday						Weekend			
			AM Peak Hour			PM Peak Hour			Daily Total	Saturday Peak Hour		
			In	Out	Total	In	Out	Total		In	Out	Total
Proposed			360	313	672	310	296	606	8,642	466	451	918
Approved			357	317	674	354	344	698	8,055	447	413	860
Difference (Proposed - Approved)			3	-4	-2	-44	-48	-92	587	19	38	58

Based on the Trip Generation Manual, the revised development program that is currently under consideration is anticipated to generate approximately 2 fewer trips (no real difference) during AM peak hour, 92 fewer trips (1-2 less trips per minute) during the critical PM peak hour, 58 additional trips (1 new trip per minute) during the less critical SAT peak hour, and 587 additional weekday trips (that would be spread out through the off-peak hours), as compared to the approved program.

Given the changes in the anticipated development trips, the future road network (as depicted in the approved traffic study) will continue to operate similar or better than reported in the approved traffic impact study. Thus, the findings and conclusions of the approved traffic impact study (TIS) that was conducted for REZ 2014-1029 would overall remain valid.

Attachment: 20210811162830 (5155 : Crossroads Village Center Special Use Permit SUP2021-003)



RESOLUTION #2018-012

RESOLUTION TO APPROVE SPECIAL USE PERMIT SUP#2018-007 FOR A BANK WITH A DRIVE-IN AT THE LOCATION ON THE GENERALIZED DEVELOPMENT PLAN

WHEREAS, The Town of Haymarket approved the Special Use Permit SUP#2018-007 at the September 4, 2018 Town Council Meeting;

WHEREAS, The Planning Commission and Town Council held a Joint Public Hearing on May 21, 2018 and received comments from the public with regard to the Special Use Permit Application;

NOW, THEREFORE, BE IT RESOLVED by the Town Council for the Town of Haymarket, Virginia, meeting in regular session this 4th day of September 2018, that the Special Use Permit, SUP#2018-007 for a Bank with a Drive-In at the Location in accordance with the GDP is approved.

By Order of Council:


David Leake, Mayor

ATTEST:


Shelley Kozlowski, Clerk of Council

Attachment: 20210811162830 (5155 : Crossroads Village Center Special Use Permit SUP2021-003)

201803280021389
Prince William County, VA
03/28/2018 02:35 PM Pgs: 6
Jacqueline C Smith, Esq., Clerk
Grantor Tax: \$5,820.00

This instrument was prepared by Bean, Kinney & Korman, P.C.

Consideration: \$5,820,000.00
Tax Assessed Value: \$4,724,100.00

*Title Insurance
Purchased, Chevy Title Ins. Co.*

GPIN Nos. 7298-81-2707; 7298-71-7053

Grantee's Address: 4080 Lafayette Center Drive
Suite 265
Chantilly, VA 20151

Return after recording to: Stephen L. Pettler, Jr.
21 S. Loudoun St., Winchester, VA 22601

THIS DEED, made as of the 8th day of March, 2018, by and between ROUTE 15-66 ASSOCIATES, LLC, a Virginia limited liability company ("Grantor"), and HAYMARKET DEVELOPMENT #1 LLC, a Virginia limited liability company ("Grantee").

WITNESSETH:

THAT FOR AND IN CONSIDERATION of the sum of Ten and No/100 Dollars (\$10,00), and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Grantor hereby grants and conveys unto the Grantee, with Special Warranty of title, all of those certain lots or parcels of land, with all improvements thereon and all appurtenances thereto, situated, lying and being in the County of Prince William, Virginia, and more particularly described on Exhibit A attached hereto and incorporated herein by reference.

This conveyance is made subject to all reservations, easements, covenants and conditions contained in the deeds forming the chain of title to the aforescribed property, as the same may lawfully apply.

WITNESS the following signatures and seals as of the date first above stated.


[SIGNATURE PAGE FOLLOWS]

Attachment: 20210811162830 (5155 : Crossroads Village Center Special Use Permit SUP2021-003)


GRANTOR: ROUTE 15-66 ASSOCIATES, LLC,
a Virginia limited liability company

By: Peete Brothers Management, LLC,
a Virginia limited liability company
Its Manager

By: 
Edward C. Peete, Class A Manager

By: 
David D. Peete, Jr., Class B Manager

By: AGS Management, LLC,
a Virginia limited liability company
Its Manager

By: 
Leslie S. Aftail, Member Manager

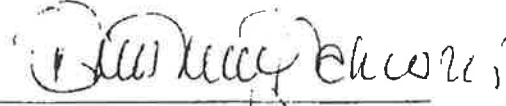
By: 
Guy M. Gravett, Member Manager

By: 
Benjamin M. Smith, Jr.,
Member Manager

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF Arlington, to wit:

The foregoing Deed was acknowledged before me, a notary public in the jurisdiction aforesaid, by Edward C. Peete, Class A Manager of Peete Brothers Management, LLC, in its capacity as Manager of Route 15-66 Associates, LLC, this 27th day of March, 2018, on behalf of the limited liability company.

My comm'n exp.: December 31, 2021
Notary registration no.: # 7506326


Notary Public

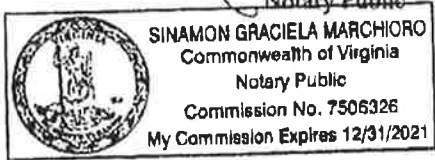
Attachment: 20210811162830 (5155 : Crossroads Village Center Special Use Permit SUP2021-003)

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Arlington, to wit:

The foregoing Deed was acknowledged before me, a notary public in the jurisdiction aforesaid, by David D. Pecte, Jr., Class B Manager of Pecte Brothers Management, LLC, in its capacity as Manager of Route 15-66 Associates, LLC, this 8th day of March, 2018, on behalf of the limited liability company.

My comm'n exp.: 12/31/2021
Notary registration no.: 7506323

Sinamon Graciela Marchioro
Notary Public

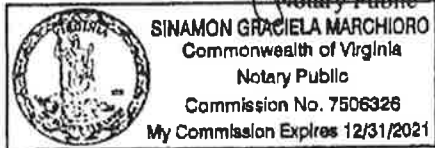


COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF Arlington, to wit:

The foregoing Deed was acknowledged before me, a notary public in the jurisdiction aforesaid, by Leslie S. Ariail, Member Manager of AGS Management, LLC, in its capacity as Manager of Route 15-66 Associates, LLC, this 8th day of March, 2018, on behalf of the limited liability company.

My comm'n exp.: 12/31/2021
Notary registration no.: 7506323

Sinamon Graciela Marchioro
Notary Public



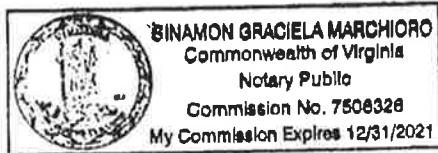
COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF Arlington, to wit:

The foregoing Deed was acknowledged before me, a notary public in the jurisdiction aforesaid, by Guy M. Gravett, Member Manager of AGS Management, LLC, in its capacity as Manager of Route 15-66 Associates, LLC, this 8th day of March, 2018, on behalf of the limited liability company.

My comm'n exp.: 12/31/2021
Notary registration no.: 7506323

Sinamon Graciela Marchioro
Notary Public

[ACKNOWLEDGMENTS CONTINUE]



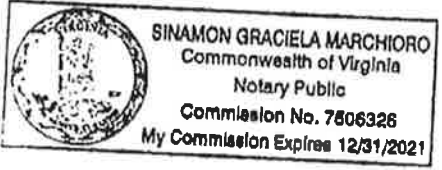
Attachment: 20210811162830 (5155 : Crossroads Village Center Special Use Permit SUP2021-003)

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF Arlington, to wit:

The foregoing Deed was acknowledged before me, a notary public in the jurisdiction aforesaid, by Benjamin M. Smith, Jr., Member Manager of AGS Management, LLC, in its capacity as Manager of Route 15-66 Associates, LLC, this 8th day of March, 2018, on behalf of the limited liability company.

My comm'n exp.: 12/31/2021
Notary registration no.: 7506323

Sinamon Graciela Marchioro
Notary Public



Attachment: 20210811162830 (5155 : Crossroads Village Center Special Use Permit SUP2021-003)

EXHIBIT A

ALL THOSE certain tracts, lots and parcels of land, together with all improvements thereon and appurtenances thereunto belonging, located in Gainesville Magisterial District, Town of Haymarket, Virginia, in Prince William County, Virginia, and more particularly described as follows:

BEGINNING at an iron pipe found in the northeasterly right-of-way line of Washington Street - U.S. Route 55 (variable width right-of-way - 40 feet from centerline), said iron pipe found being the westerly corner of the Giuseppe and Josephine Russo property and the southerly corner of the parcel herein described; thence with said northeasterly right-of-way line of Washington Street the following courses and distances:

North 56 degrees 59 minutes 47 seconds West 530.57 feet to an iron pipe set;
 North 54 degrees 50 minutes 37 seconds West 233.88 feet to an iron rod with VDOT cap found;
 North 48 degrees 01 minutes 55 seconds West 68.78 feet to an iron pipe set at the southerly corner of the Quarles Haymarket Center, LLC Property; thence departing Washington Street and with said Quarles Haymarket Center, LLC Property the following courses and distances:

North 32 degrees 25 minutes 02 seconds East, crossing an iron rod with cap found at 326.19 feet, and being 428.90 feet in all, to an iron pipe found;
 North 56 degrees 35 minutes 13 seconds West 530.17 feet to a Virginia Department of Highways and Transportation monument found in the southerly right-of-way/limited access line of Ramp "C1" leading from Northbound Route 15 to Eastbound Route 66 (variable width right-of-way); thence with the right-of-way/limited access line of Ramp "C1" the following courses and distances:

North 60 degrees 23 minutes 28 seconds East 217.31 feet to an iron pipe set;
 North 87 degrees 31 minutes 22 seconds East 9.74 feet to an iron pipe set;
 South 79 degrees 29 minutes 10 seconds East, crossing an iron rod with VDOT cap found at 3.22 feet, and being 425.78 feet in all, to an iron rod with VDOT cap found;
 South 80 degrees 52 minutes 12 seconds East 200.11 feet to an iron rod with VDOT cap found in the southerly right-of-way/limited access line of Ramp "C" leading from Southbound Route 15 to Eastbound Route 66; thence with the southerly right-of-way/limited access line of Ramp "C" the following courses and distances:

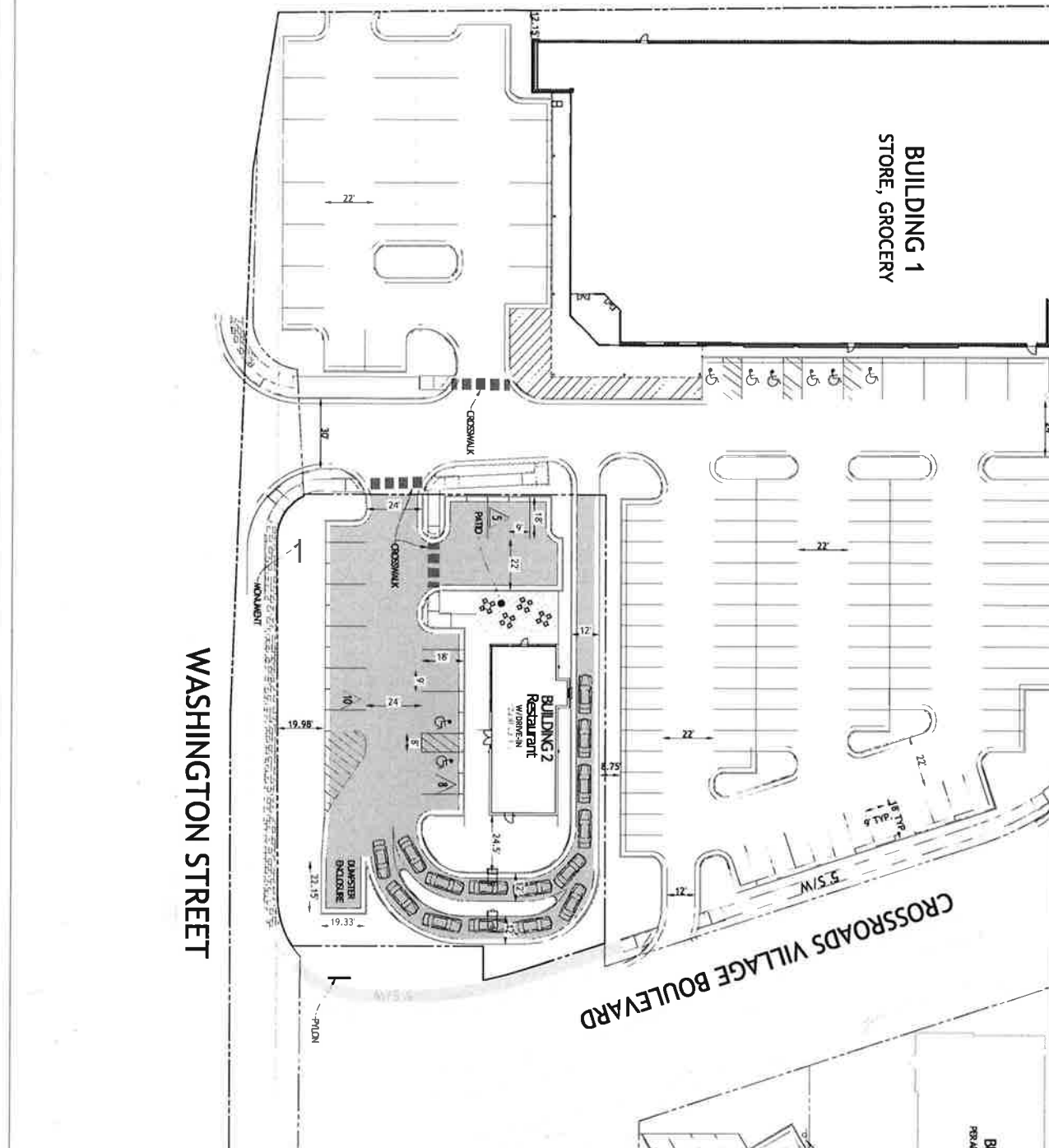
South 79 degrees 42 minutes 49 seconds East 226.82 feet to an iron rod with VDOT cap found;
 159.22 feet along the arc of a curve to the right (crossing an iron rod with VDOT cap found at 156.48 feet), having a radius of 1,130.00 feet, a delta angle of 08 degrees 04 minutes 22 seconds, a tangent length of 79.74 feet, and a chord bearing and distance of South 75 degrees 40 minutes 33 seconds East 159.08 feet to an iron pipe set;
 South 59 degrees 01 minutes 51 seconds East 258.98 feet to an iron pipe found at the northerly corner of the D.R. Horton, Inc. property (Parcel "A", Sherwood Forest Subdivision); thence departing Route 66 and with the D.R. Horton, Inc. property in part, with the Gurjit K. and Bhupinder S. Dhindsa property in part, with the Tilak Kharel property in part, with the Patricia A. Titchenell property in part, with the Tracy Lynn Pater property in part, with the Shirley Ann Bailey

201803280021389 Page 6 of 6

property in part, with the Addo Haymarket, Inc. property in part, and with the aforesaid Giuseppe and Josephine Russo property, South 29 degrees 30 minutes 15 seconds West 1,044.31 feet to the point of beginning containing 912,905 square feet, more or less, or 20.9574 acres, more or less, as shown on a plat prepared by Ross-France, P.C., dated February 16, 2018.

AND BEING, the remainder of the same land conveyed to Route 15-66 Associates, LLC, a Virginia limited liability company by Trustees' Deed from Benjamin M. Smith, Jr., Successor Trustee and Peete Brothers Management, LLC, Successor Trustee, a Virginia limited Liability company, dated August 30, 2013 and recorded among the aforesaid land records as Instrument Number 201309100092241.

Attachment: 20210811162830 (5155 : Crossroads Village Center Special Use Permit SUP2021-003)



PROPERTY INFORMATION
 PROPERTY ADDRESS: 15150 WASHINGTON STREET (PART)
 PRINCE WILLIAM COUNTY GPIN: 7298-21-2707 (PART)
 ZONING DISTRICT: B-2 (BUSINESS COMMERCIAL)

PROPOSED SPECIAL USE
 RESTAURANT W/ DRIVE-IN

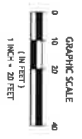
S.U.P. AREA = 0.6363 AC.
 RESTAURANT SQUARE FOOTAGE = 42,250 SQFT

PARKING TABULATIONS:

REQUIRED:
 RESTAURANT/DRIVE-IN - 18 SPACES - 23 SPACES

PROVIDED:
 RESTAURANT/DRIVE-IN - 23 SPACES

LEGEND
 SLIP BOUNDARY



22 Engineers, Inc.
 11710 MARKET STREET
 SUITE 100
 ANNANDALE, VA 22003
 (703) 441-1111
 www.22engineers.com

engineers

RESTAURANT W/ DRIVE-IN SPECIAL USE PERMIT PLAN
 CROSSROADS VILLAGE CENTER
 HAYMARKET, VIRGINIA

SCALE: 1"=20'
 JULY, 2021

Land Use	ITE Code	Size	Weekday			Weekend												
			AM Peak Hour		PM Peak Hour		Daily Total											
			In	Out	In	Out	In	Out										
Residential Uses																		
Multifamily Housing (Low-Rise)	220	79 DU	9	29	38	30	18	48	556	26	26	52						
Subtotal Residential without Reductions			9	29	38	30	18	48	556	26	26	52						
Non-Residential Uses																		
Hotel	310	110 Rooms	30	20	50	29	27	56	815	45	35	80						
Shopping Center	820	11 899 KSF of GLA	98	60	158	54	58	112	1,414	60	55	115						
Supermarket	850	31 50 KSF of GFA	72	48	120	168	161	329	3,446	204	196	400						
Day Care Center	565	10 KSF of GFA	58	52	110	52	59	111	476	11	6	17						
Fast-Food Restaurant with Drive-Thru Window	934	5 832 KSF of GFA	119	115	234	99	92	191	2,747	163	157	320						
Coffee/Donut Shop with Drive-Thru Window	937	2 250 KSF of GFA	102	98	200	49	49	98	1,846	94	94	188						
Subtotal Non-Residential without Reductions			479	393	872	451	446	897	10,744	577	543	1,120						
Internal Capture (15% Residential to Commercial)			1	4	5	5	3	8	83	4	4	8						
Pass-By (24%AM, 34% PM, 24% daily, and 26% Saturday)			41	26	67	75	74	150	1,166	69	65	134						
Subtotal with Reductions			437	363	800	371	369	739	9,494	504	474	978						



TOWN OF HAYMARKET TOWN COUNCIL
PUBLIC HEARING/REGULAR MEETING
 ~ MINUTES ~

Kimberly Henry, Clerk of the Council
<http://www.townofhaymarket.org/>

15000 Washington St
 Haymarket, VA 20169

Monday, June 7, 2021

7:00 PM

Council Chambers

A Public Hearing/Regular Meeting of the Mayor and Council of the Town of Haymarket, VA, was held this evening in the Council Chambers, commencing at 7:00 PM.

Mayor Kenneth Luersen called the meeting to order.

I. Call To Order

Councilman Marchant Schneider: Present, Councilman Chris Morris: Present, Councilman Joe Pasanello: Present, Councilman Bob Weir: Present, Vice Mayor TracyLynn Pater: Present, Mayor Kenneth Luersen: Present.

II. Pledge of Allegiance - Girl Scout Troop #90064

Mayor Ken Luersen asked everyone to stand and introduced Girl Scout Troop #90064 who lead the Pledge of Allegiance.

III. Invocation - Pastor Allan Smith, Haymarket Baptist Church

Mayor Luersen introduced Pastor Allan Smith from Haymarket Baptist Church who gave the evening's invocation.

IV. Public Hearing - FY2022 Budget

Town Manager Chris Coon gave the proposed budget hearing presentation giving details on particular line items, future Town services and programs being implemented. After Mr. Coon's presentation, the Council made some positive points on the staffing and importance of the Police Department and also thanked the Administrative staff on the work they did on the presentation and suggested edits to the budget so that it would balance. Councilman Morris thanked his colleagues for the hard work on the budget.

There were no citizen comments for the public hearing.

V. Close Public Hearing

With no additional comments from the Council and no comments from the citizens, Mayor Luersen closed the public hearing.

VI. Citizen's Time

Prior to citizen's time, Councilman Morris asked for a line item to be added to the agenda on the subject of discussion of a special election and the subsequent action. There were no objections from the Council to add the item.

At this time, Mayor Luersen opened the floor for citizen's time. There were no citizen's wishing to address the Council at this time.

VII. Introduction of New Police Officers

Sergeant Jake Davis introduced Officer King Chan to the Town as one of the newest police officers to the Haymarket Police Department. Sergeant Davis shared with the Council Officer Chan's work experience and invited everyone to welcome Officer Chan to the Department. Sergeant Davis also shared of the hiring of Office Joe Coppage to the Haymarket Police Department, who could not be in attendance at this evening's meeting.

VIII. Consent Agenda

Councilman Weir moved to adopt the Consent Agenda items 1-6 as presented. Councilman Schneider seconded the motion. The motion carried.

1. Mayor and Council - Work Session - Apr 12, 2021 7:00 PM

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Bob Weir, Councilman
SECONDER: Marchant Schneider, Councilman
AYES: Schneider, Morris, Pasanello, Weir, Pater

2. Mayor and Council - Work Session - Apr 26, 2021 7:00 PM

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Bob Weir, Councilman
SECONDER: Marchant Schneider, Councilman
AYES: Schneider, Morris, Pasanello, Weir, Pater

3. Mayor and Council - Public Hearing/Regular Meeting - May 3, 2021 7:00 PM

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Bob Weir, Councilman
SECONDER: Marchant Schneider, Councilman
AYES: Schneider, Morris, Pasanello, Weir, Pater

4. Mayor and Council - Work Session - May 10, 2021 7:00 PM

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Bob Weir, Councilman
SECONDER: Marchant Schneider, Councilman
AYES: Schneider, Morris, Pasanello, Weir, Pater

5. Department Reports

RESULT: ADOPTED [UNANIMOUS]
MOVER: Bob Weir, Councilman
SECONDER: Marchant Schneider, Councilman
AYES: Schneider, Morris, Pasanello, Weir, Pater

6. Monthly Liaison Reports

RESULT: ADOPTED [UNANIMOUS]
MOVER: Bob Weir, Councilman
SECONDER: Marchant Schneider, Councilman
AYES: Schneider, Morris, Pasanello, Weir, Pater

IX. Agenda Items

1. Consideration of SUP 2021-001: Drive Thru Restaurant at Crossroads Village Center

Town Planner Emily Lockhart gave a brief update on the application. She stated she shared the site plan updates showing the additional sidewalk that was requested to go across the entrance of the site. Ms. Lockhart stated that based on the applicant's due diligence in regards to stacking, traffic flow and previous concerns and recommended approval of the SUP. There was a discussion on why the original SUP's in 2018. Ms. Lockhart stated that the difference in the application now vs. the 2018 applications was that the applicant has provided who the businesses would be and more detailed information on each parcel. She stated that this application is more thorough than the previous application. There was also a short discussion on the joint tenancy at the pad site. The applicant provided information regarding the subject of the adjoining tenant at the building site. Ms. Lockhart shared that the Planning Commission recommended approval for the application at their meeting. There was also a discussion on the traffic study. Councilman Schneider provided some conditions if the SUP was to be approved.

Councilman Schneider moved that the Town Council approve SUP 2021-001- Restaurant with Drive Thru subject to the following conditions dated June 7, 2021: 1.) Site

Development. The property shall be developed in conformance with the Special Use Permit entitled Restaurant with Drive In Special Use permit plan Crossroads Village Center prepared by J2 Engineers dated March 19, 2021 revised through June 3, 2021 "The SUP Plan": Approval of this SUP should not relieve the applicant or the owners of the property from the obligation to comply with and conform to any other applicable zoning ordinance, codify ordinance or any other regulatory requirement; 2.) Use limitations. The use approved with this SUP shall be limited to a Drive In facility in connection with a by-right restaurant use, term of our SUP use. 3.) Directional signage. The applicant shall provide one (1) vehicle way finding sign as shown generally on the SUP plan prior to the first occupancy permit for the SUP use. 4.) Pedestrian Crosswalks. The applicant shall provide a pedestrian crosswalks as shown generally on the SUP plan prior to the first occupancy permit for the SUP use. Councilman Morris seconded the motion. At this time, the Council debated the motion and their opinions whether to be for or against the SUP. **The motion failed by a roll call vote.**

RESULT: DENIED [2 TO 3]
MOVER: Marchant Schneider, Councilman
SECONDER: Chris Morris, Councilman
AYES: Marchant Schneider, Chris Morris
NAYS: Joe Pasanello, Bob Weir, TracyLynn Pater

2. FY21 Budget Amendment Discussion and Set Public Hearing

Town Manager Chris Coon asked for the Council to approve the ad for the last budget amendment for this fiscal year and schedule the public hearing for the June 28th work session. A short discussion followed. The Council directed staff to proceed with the public hearing ad and scheduling the public hearing for June 28, 2021.

3. Resolution 2021- 008: Reduce Planning Commission to 5 Members

There was a short discussion on reducing the size of the Planning Commission from 7 to 5 members. There were questions to the Town Attorney regarding quorum and voting.

Councilman Weir moved to adopt Resolution 2021-008 to reduce the size of the Haymarket Planning Commission to 5 members effective July 1, 2021. Councilman Pasanello seconded the motion. The motion carried.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Bob Weir, Councilman
SECONDER: Joe Pasanello, Councilman
AYES: Schneider, Morris, Pasanello, Weir, Pater

4. Park Sun Shade: Authorization to Purchase

Town Manager Chris Coon updated that quote for the shade at the Town Park. Mr. Coon requested that the Council move to authorize the Town Staff to move forward with the purchase and installation of the shade system not to exceed \$48,500. A short discussion followed.

Councilman Pasanello moved for the Haymarket Town Council authorize the Staff to move forward with the purchase and installation of the shade system at the Town Park not to exceed \$48,500. Councilman Schneider seconded the motion. The motion carried by a roll call vote.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Joe Pasanello, Councilman
SECONDER: Marchant Schneider, Councilman
AYES: Schneider, Morris, Pasanello, Weir, Pater

5. Police Officer Salary Increase

Councilman Pasanello moved for the Town of Haymarket increase Officer Burgoon's salary to \$65,000 effective May 1, 2021. Councilman Weir seconded the motion. The motion carried.

Attachment: 20210811162830 (5155 : Crossroads Village Center Special Use Permit SUP2021-003)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Joe Pasanello, Councilman
SECONDER:	Bob Weir, Councilman
AYES:	Schneider, Morris, Pasanello, Weir, Pater

6. Special Election

Town Manager Chris Coon shared with the resignation of Councilman Steve Shannon, the Town Council would need to meet some deadlines in appointment of a Council Member to fill the vacancy until the time of a special election. He also stated that the Council would need to decide when to hold the special election. Town Attorney Crim shared the legislative guidelines on the special election options. A discussion followed on the cost estimate and the precinct costs to the Town if the special election would be held at the same time as the general election.

Councilman Pasanello moved to direct the Town Attorney to file a RIF for a special election for the November 2nd general election date. Councilman Weir seconded the motion. The motion carried.

After the motion, the Town Council discussed filling the vacancy. The Town Council set a special meeting for 6 pm on Tuesday, July 6th for the purpose of interviewing for the vacancy.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Joe Pasanello, Councilman
SECONDER:	Bob Weir, Councilman
AYES:	Schneider, Morris, Pasanello, Weir, Pater

X. Closed Session - As Needed

1. Motion to go into Closed Session

Vice Mayor Pater moved that the Town Council go into closed session pursuant to Virginia Code § 2.2-3711(A)(1) for a personnel matter involving the assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of the Town; specifically dealing with vacant Town Council seat; and permitted by Virginia Code § 2.2-3711 (A)(8), consultation with legal counsel regarding a specific legal matter requiring the provision of legal advice by such counsel, relating to DMV investigation and reorganization. Councilman Weir seconded the motion. The motion carried.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	TracyLynn Pater, Vice Mayor
SECONDER:	Bob Weir, Councilman
AYES:	Schneider, Morris, Pasanello, Weir, Pater

2. Certificaton

Vice Mayor Pater moved that the Council certify that, in the closed session just concluded, nothing was discussed except the matter or matters (1) specifically identified in the motion to convene in closed session and (2) lawfully permitted to be discussed in a closed session under the provisions of the Virginia Freedom of Information Act as cited in that motion. Councilman Pasanello seconded the motion. The motion carried by a roll call vote.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	TracyLynn Pater, Vice Mayor
SECONDER:	Bob Weir, Councilman
AYES:	Schneider, Morris, Pasanello, Weir, Pater, Luersen

XI. Council Member Time

1. Chris Morris

Councilman Morris shared the date on the Flags for Heroes event in the Town Park. Mr. Morris also shared that he was saddened by the resignation of Councilman Shannon. He stated that he wished Mr. Shannon the best and to publicly thank him for his years of service to the Town. Lastly, Mr. Morris welcomed the newly sworn police officers to the Police Department and to the Town of Haymarket.

2. Marchant Schneider

Councilman Schneider also thanked Councilman Shannon for his years of service. In addition, Mr. Schneider welcomed the new officers to the Town. Mr. Schneider reminded the Town Council of the annual end of school year water balloon fight in Longstreet Commons on June 11th. Lastly, Mr. Schneider stated that he agreed with Councilman Pasanello on updating the core and mission statements at the beginning of the next fiscal year.

3. TracyLynn Pater

Vice Mayor Pater shared the information on the next Business Roundtable meeting. She also shared information on the Summer Concert scheduled for August 14th.

4. Joe Pasanello

Councilman Pasanello welcomed the new officers to the Town of Haymarket. Mr. Pasanello also thanked the Haymarket Town and Country Garden Club for their hard work on the Town's planter boxes.

5. Bob Weir

Councilman Weir shared that the Town of Haymarket has one of the two lowest tax rates due to the Council and Boards basically volunteering their time unlike other jurisdictions in the County.

6. Ken Luersen

Mayor Luersen did not have anything to report.

XII. Adjournment

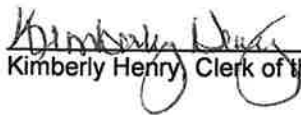
With no further business before the Town Council, Councilman Weir moved to adjourn with a second by Councilman Pasanello. The motion carried.

1. Motion to Adjourn

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bob Weir, Councilman
SECONDER:	Joe Pasanello, Councilman
AYES:	Schneider, Morris, Pasanello, Weir, Pater

Submitted:

Approved:


Kimberly Henry, Clerk of the Council

Kenneth Luersen, Mayor

Attachment: 20210811162830 (5155 : Crossroads Village Center Special Use Permit SUP2021-003)

