

It is intended that the PRD be utilized to create pedestrian oriented residential neighborhoods of traditional design physically integrated with the existing surrounding development. To accomplish this goal, the PRD regulations provide flexibility in residential development by providing for a mix of residential uses, including housing types, densities and alternative forms of housing, with appropriate non-residential uses, flexibility in internal relationships of design elements and, in appropriate cases, increases in residential densities over that provided in conventional districts.

In recognition that the PRD was utilized prior to 2009 to develop communities of a less-traditional, more suburban form, the PRD continues to accommodate these pre-approved projects to develop in the less traditional form where envisioned under the original approvals.

4-102 Size and location

PRDs shall only be located within the Service Districts. The minimum area required for the initial establishment of a PRD shall be 5 acres.

The PRD shall be located within an area in the Service District that the Comprehensive Plan designates for planned residential development and which has sufficient infrastructure to support the proposed development, including roads, public facilities and utilities, or where sufficient infrastructure is planned and expected to be in place. In cases where necessary infrastructure is not yet available the applicant shall make provisions for the necessary infrastructure in the Concept Development Plan or Code of Development.

4-103 Principal Uses Permitted

The following principal uses shall be permitted, subject to designations of areas and sites for such uses in the approved Concept Development Plan and subject to the use limitations set forth in Section 4-106 below:

- A. Detached, single family dwellings
- B. Attached, single family dwellings including duplex, townhouses, atrium houses, and patio houses
- C. Multi-family dwellings
- D. Live-work dwellings
- E. Urban cottages, if accessory to a detached, single family dwelling

4-104 Secondary Uses Permitted

The following secondary uses shall be permitted only in a PRD which contains one or more principal uses; subject to designation of areas and sites for such uses in the approved Concept Development Plan and subject to the use limitations set forth in Section 4-106 below:

- A. Parks, playgrounds, community centers and non-commercial recreational and cultural facilities such as tennis courts, swimming pools, game rooms, libraries and related facilities.

- B. Electric, gas, water, sewer, and communication facilities, including transformers, pipes, meters, pump stations and related facilities for distribution of local service.
- C. Public uses and public buildings such as schools, post offices, governmental offices, and roads.
- D. Accessory uses and structures including home occupations, storage buildings, and efficiency apartments.
- E. Temporary buildings, the uses of which are incidental to construction during development being conducted on the same or adjoining tract or section which shall be removed upon completion or abandonment of such construction.
- F. Day care, child care, or nursery facility
- G. Place of worship
- H. Financial institutions
- I. Eating establishments
- J. Drug stores
- K. Barber and beauty shops
- L. Dry cleaners and laundries
- M. Bakeries
- N. Florist, gift and antique shops
- O. Retail stores, including food and hardware stores
- P. Convenience stores
- Q. Offices, including medical facilities and professional and business offices
- R. Theaters
- S. Farmer's market
- T. Retail nurseries and greenhouses
- U. Commercial/Office uses collocated with residential dwelling units
- V. Bed and breakfast, inn

4-105

Special Exception Uses

The following uses may be approved by the Board of Supervisors either in conjunction with the establishment of the PRD or, if following the establishment of the PRD, pursuant to the provisions of Section 4-100 and 13-200 of this ordinance, and if approved, may be the subject of certain conditions:

- A. Any use listed in Sections 103 and 104 above which was not specifically designated in the approved Concept Development Plan establishing the PRD.
- B. Commercial Recreational Facilities
- C. Continuing care facilities

4-106

Use Limitations

Unless otherwise specified in this Article or modified pursuant to Section 4-112 below, all uses shall conform to the general and specific use limitations and performance standards of Article 6 (Accessory Uses, Accessory Service Uses and Home Occupations); Article 7 (Off-Street Parking and Loading, Public and Private Streets); Article 8 (Signs); and Article 9 (Performance Standards) of this Ordinance. Specific use limitations relating to the PRD are:

- A. Commercial uses within the PRD shall be designed to serve primarily the needs of the residents of the proposed community and nearby areas and such uses, including offices and retail, shall be located and designed to protect the primary residential character of the PRD.
- B. A maximum of 100 square feet of commercial floor area shall be permitted within a project for each dwelling unit in the project; commercial space located within a live-work dwelling shall not be included in this calculation.
- C. The maximum land area utilized for commercial use shall not exceed 10 percent of the total land area of the PRD.
- D. Live-work dwellings and secondary uses of a commercial and office nature shall be permitted only in a PRD which has a minimum of 50 residential dwelling units except that live-work units shall also be allowed in PRDs with fewer than 50 dwellings if the live-work units are located on the main street of a Service District, as identified in the Comprehensive Plan.
- E. A level of commercial use beyond that set forth in Sections A, B, C and D above, may be approved by the Board in conjunction with a PRD if either of the following conditions is met:
 - 1. In areas designated for residential uses at a density of 2 or more units per acre in the Comprehensive Plan, the amount of commercial allowed may be increased provided:
 - a. commercial neighborhood location as proposed is consistent with the associated Service District's adopted Comprehensive Plan including any recommended development scale requirements, guidelines and other associated provisions of the Comprehensive Plan for that specific site;

- b. proposed commercial buildings planned in scale, bulk and mass shall be similar to and compatible with the adjoining planned or existing neighborhoods within the Service District; and the
 - c. ratio of commercial to residential uses is consistent with the Service District's Comprehensive Plan for the specified location.
2. Where a PRD abuts any portion of the main street of a Service District, as identified in the Comprehensive Plan, additional commercial uses may be approved on parcels located along the main street.
- F. Urban cottages shall be accessory to a single family detached principal dwelling unit and subject to the following restrictions and conditions:
1. Only one urban cottage shall be allowed per lot. Said lot shall have a minimum size of 7,500 square feet. Urban cottages shall be limited to 20% of the total dwellings in the PRD. The Concept Development Plan shall show residential land bays where urban cottages may be permitted.
 2. The maximum gross floor area shall be 1,200 square feet.
 3. The maximum height shall be 30 feet.
 4. One additional parking space shall be required for an urban cottage.
 5. Urban cottages shall require a site plan submitted and approved pursuant to Section 12 of this Ordinance prior to construction. Lots that are to contain urban cottages shall be designated on the approved final plat.
- G. Residential dwelling units, when located in the same building as commercial/office uses, shall be located on levels above street level at a density not to exceed one dwelling unit per floor per 1,000 feet of gross floor area devoted to commercial/office uses.

4-107

Lot and Building Requirements

- A. Lot sizes, widths, frontages and setbacks shall be determined by the approval of a Code of Development, subject to the following guidelines:
1. Single family residential units should generally be set back no further than 10-20 feet, with a variety of setbacks provided within blocks.
 2. Commercial or mixed-use buildings should abut the front property line except where areas are provided to accommodate additional landscaping or streetscape elements, including wider sidewalks and/or seating areas.
 3. Side and rear setbacks may be minimal, except that setbacks more consistent with conventional development should be provided at the edge of the project where it abuts more conventional forms of development.
 4. A variety of lot sizes, widths, setbacks, unit sizes and spacing between units shall be provided within blocks along individual streets.

- B. The maximum building heights shall be determined by the approval of a Code of Development, with heights generally no more than two or three stories, and a variety of heights shall be provided within blocks along individual streets.
- C. Building form and character shall be determined by approval of a Code of Development, subject to the following guidelines:
 - 1. Monotony shall be avoided through the use of a variety of building styles, floor plans, widths, mass, setbacks, roof types, heights and slopes, entry details, height, trim detailing, porches, fenestration, materials and color.
 - 2. Pitched roofs shall be utilized to promote variety, with 45-60 degrees generally the minimum pitch for such roofs. Flat roofs shall include a parapet wall screening any rooftop equipment.
 - 3. Residential units shall be designed so that garages do not dominate the street, with an emphasis on rear-loaded garages. Where garages cannot be rear-loaded from alleys, the driveway for an individual house shall not exceed 10 feet in width up to where the driveway meets the vertical plane of the front wall or porch of the house. Where garages are unable to be alley served, shared driveways and garages loaded from side-streets are encouraged. Any front loading garage shall be set back a minimum of 14 feet behind the front wall of the house. Any side loading garage shall be set back a minimum of 8 feet behind the front wall of the house.
 - 4. Buildings shall be designed with architectural elements, cues, features and materials that are evocative of the architectural vernacular of the Virginia piedmont and it's traditional, historic towns, and shall not include generic design approaches intended to identify a particular building with the user thereof.

4-108

Density

The maximum base residential density in the PRD is 5.5 dwelling units per acre as defined in Section 2-308 of this Ordinance. An additional 0.5 dwelling units per net developable acre may be allowed (up to a maximum of 6.0 dwelling units per acre) for urban cottages.

4-109 Open Space and Recreational Requirements

Not less than 25 percent of the gross area of the PRD shall be in open space, except that PRDs with fewer than 20 acres located along the main street of a Service District, as identified in the Comprehensive Plan, may have lesser open space as approved by the Board. This area shall exclude vehicular areas such as streets (including sidewalks), roads, travelways, and parking lots. Open space may encompass common and non-common open space, active and passive recreational areas, transitional yards, golf courses, buffer areas, utility easements, water bodies, wetlands and floodplains. The open space shall be treated as an integral part of the development, with small parks provided throughout the development within walking distance of all residents. Small open spaces such as plazas or courtyards shall also be incorporated into any commercial areas of the development at appropriate locations, to provide a focal point for activity and serve as gathering places. Larger developments shall also provide for active recreation opportunities for residents within some of the open spaces. Calculations of the area qualifying for open space credit shall be as specified in Section 2-309 of this Ordinance, except that the minimum dimension and consolidated open space requirements of 2-309.3 shall not apply.

4-110 Ownership, Operation, and Management of Common Open Space and Common Facilities

The approved Concept Development Plan or Code of Development shall include provisions for the ownership, operation and management of all common open space, common private facilities, including private streets, parking, trails and pathways, stormwater management facilities and lakes. This requirement shall apply to both residential and commercial areas.

4-111 Architectural Controls and Design Standards

A PRD is intended to be of a scale, size and location which encourages a harmonious environment and promotes a sense of community and place at the pedestrian scale for the residents and visitors of the district. To that end, the PRD rezoning application shall include plans for architectural controls and design standards, to include Lot and Building standards consistent with Section 4-107, which shall be codified within the Code of Development to be approved for the project as part of the rezoning as set forth in Section 4-113.D. The Code of Development shall be approved by the Board of Supervisors as part of the rezoning, and shall include a mechanism accountable to the public interest whereby the developer will implement the Code of Development for individual buildings within the PRD.

4-112 Modifications

In order to better accomplish the purpose of the PRD as set forth in Section 4-101 above, the Board of Supervisors may, after review by the Planning Commission, modify the regulations of this Ordinance, the Subdivision Ordinance and the Design Standards Manual upon a finding that the proposed modifications, although not literally in accord with applicable regulations, will satisfy public purposes of the ordinance and regulations to at least an equivalent degree. Modifications to regulations shall be requested and processed concurrent with the rezoning to the PRD pursuant to provisions listed in Section 4-113 below and Section 13-200 of this Ordinance. However, no modification shall be permitted which affect uses, density, or the minimum district size of the PRD.

Rezoning to the Planned Residential Development District

Rezonings to PRD shall be established by amending the Zoning Map of Fauquier County. The procedures for such an amendment shall be generally as set forth in Section 13-200 of this Ordinance except as provided below. In the event of conflict between the provisions of Section 13-200, the provisions below shall prevail.

A. (Deleted)

B. Rezoning Application - General

All rezonings to the PRD shall require a Concept Development Plan, a Code of Development, and other documents which may include, but not be limited to, proffer statements, dedications, and contributions

C. The Concept Development Plan

Applicants for rezoning to the PRD shall submit at time of application a proposed Concept Development Plan which shall include on one or more sheets not to exceed 24 by 36 inches in size at a scale to be approved by the Director:

1. Wetlands, floodplain, streams, other significant environmental features, and historic resources and elements proposed to be preserved.
2. Proposed grading/topography with a maximum of two (2) foot contours.
3. A general street, block and open space layout, including:
 - a. proposed streets, alleys, sidewalks and pedestrian paths;
 - b. connections to existing and proposed streets adjoining the development property, including streets proposed in the County's Comprehensive Plan;
 - c. size, location, character, and connections between proposed open spaces.
4. The general layout for the water and sewer systems, and a conceptual stormwater management plan.
5. A Type I Soil Report prepared by the Fauquier County Soil Scientist's Office or a Preliminary Soil Report prepared by a certified professional soil scientist and approved by the County Soil Scientist, such reports to be consistent with the standards found in Fauquier County Subdivision Ordinance Section 9.5(C).

D. Code of Development

The Code of Development shall include all information as established by the "Outline for Code of Development" adopted by the Fauquier County Board of Supervisors by Resolution on October 14, 2010 as set forth in Appendix C.

1. Architectural Design Element of the Code of Development

The Board may allow the detailed architectural design controls portion of the Code of Development to be approved as a separate step, after the rezoning, where it determines that sufficient conceptual information on

architectural styles is submitted and approved with the rezoning to establish a clear framework for required design. Where allowed to be approved separate from the Rezoning, the Architectural Styles appendix of the Code of Development must be approved prior to any submission of a plan for approval involving a building. The document may be administratively approved by the Zoning Administrator upon a finding that:

- The styles are those generally approved in the initial rezoning or the developer has documented historic precedent within Fauquier County for the style.
- The details include massing, roof-lines and eaves, porches, windows, doors and trim consistent with historic precedents.

2. Signage Element of the Code of Development

The detailed signage provisions may be submitted within the Code of Development or may be approved as a separate step, at the option of the Applicant. Where not included as part of the initial Rezoning, the detailed Signage Appendix to the Code of Development shall be approved prior to placement of any sign on-site and prior to approval of any development plan for the project. This document shall be approved by the Board of Supervisors as an amendment to the Code of Development.

E. Additional Submission Materials

The following additional materials shall be submitted at the time of the application. These materials are to be used by staff, the Planning Commission and the Board of Supervisors in reviewing and evaluating the application and may, along with the proposed Concept Development Plan and basic application materials required by Section 13-200 of this ordinance, form a basis for identification and mitigation of impacts of the proposed development and for making modifications to the proposal to allow it to better satisfy the purpose and intent of the PRD and to meet all requirements of this Ordinance. The required additional materials are:

1. A statement which confirms the ownership or control of the property, the nature of the applicant's interest in the same, and the place of record of the latest instrument in the chain of title for each parcel constituting the subject property.
2. Specific requests for any modifications pursuant to Section 4-112 above. Such requests shall be specific as to all modifications that are being requested, why they are needed or desired and shall provide detailed justification as to how, if approved, the modifications will serve public purposes to at least an equivalent degree as the ordinances being modified. Where such modifications include a reduction in parking or use of on-street spaces to meet parking requirements, a detailed parking impact assessment shall be submitted in support of such reduction.
3. A Traffic Impact Analysis (TIA) or Traffic Assessment per Section 301B of the Design Standards Manual.
4. A statement indicating anticipated impacts of the development including the extent, approximate timing and estimated costs of proposed off-site

infrastructure improvements such as roads, water, sanitary sewer and stormwater management facilities necessary to construct the development. This statement should identify those facilities to be constructed by the applicant and explain how and when those to be constructed by others will be provided.

5. A draft Proffer Statement to address mitigation of impacts, including but not limited to, transportation impacts, impacts on public facilities such as schools.

4-114

General Standards for Approval of a Rezoning to the Planned Residential District

In addition to the specific requirements of this section and the standards for rezoning for all development contained in Section 13-200, the following standards shall be utilized and adhered to by the Planning Commission and Board of Supervisors in determining whether to approve the proposed development:

- A. The design of the development is such that it will achieve the stated purpose and intent of the PRD District, to create pedestrian oriented residential neighborhoods of traditional design, providing for a reasonable and sustainable transition to adjoining development, with open space, landscaping and/or larger lots utilized to provide buffers where appropriate.
- B. The development is in substantial conformance with the adopted Comprehensive Plan with respect to type, character and intensity of use and public facilities.
- C. The development provides complementary commercial uses where appropriate.
- D. The development provides for a mixture of housing types, sizes, and affordability. Housing in a range of sizes and styles is integrated throughout the development. Opportunities for accessory apartments and live-work units are provided where appropriate.
- E. The development is designed with a pedestrian orientation, with clearly defined continuous sidewalks and paths enhanced by trees, pocket parks, seating and other streetscape elements. Buildings are located close to the sidewalk with the mix of uses providing for a variety of possible pedestrian destinations within walking distance of each other.
- F. Buildings and spaces within the PRD are designed to create neighborhoods that are attractive and inviting, and in keeping with the feel, style and architectural vernacular of a traditional town in the Virginia piedmont. The elements of building height, setback, yards, architecture and spatial enclosure as established by the Code

of Development for the project all contribute to the appearance and function of the development.

- G. Streets are designed to consider their influence on the character of the neighborhood as well as their carrying capacity. Street networks provide multiple connections internally and connect through to adjoining properties where appropriate, providing multiple routes to any destination. Generally, local streets are narrower, minimizing pavement. Parking is accommodated on the street. Utilities are provided within the street wherever possible, in order to accommodate a streetscape that includes street trees as well as sidewalks.
- H. Open space is treated as an integral component of the development design. Small parks are provided throughout the development within walking distance of all residents. In core areas, small open spaces such as plazas or courtyards are provided at appropriate locations to provide a focal point for the community and to serve as gathering places. Larger developments provide for active recreational opportunities for residents. Natural and environmentally sensitive areas are preserved and protected. The open spaces within the development are connected by sidewalks or trails, and connected to other open spaces.
- I. The development minimizes the amount of parking provided, maximizing opportunities for on-street parking and shared parking. Parking for commercial uses are located to the rear and side of buildings and dispersed in smaller lots where possible, so that it does not dominate the street. In residential areas, garages are predominately located to the rear, with alley access, returning the street to the pedestrian. Where garages are fronting on streets rather than alleys, they are designed such that they are not a prominent feature of the street, with side-loading doors and greater setbacks than the remainder of the house.
- J. Lighting is traditional in form and consistent with the human-scale orientation of the development, oriented toward pedestrians and minimizing impacts on dark-skies.
- K. The development efficiently utilizes the available land and protects and preserves floodplains, wetlands and steep slopes.
- L. The development is designed to prevent substantial injury to the use and value of existing surrounding development, and shall not hinder, deter or impede use of surrounding properties in accordance with the adopted Comprehensive Plan.
- M. The development shall be located in an area in which transportation, police and fire protection, other public facilities and utilities, including water and sewer, are or will be available and adequate for the uses proposed; provided, however, that the applicant shall make provision for such facilities or utilities which are planned but not presently available.

4-115

Deviations from the Approved Concept Development Plan and Code of Development

Development of the PRD shall be in substantial conformance with the Concept Development Plan and Code of Development. Minor deviations from the approved Concept Development Plan and Code of Development may be permitted as specifically set forth within the approved Code of Development. All other changes shall require amendments to the approved rezoning.

PRD Approved Prior to January 1, 2009

Consistent with the Purpose and Intent set forth in Section 4-101, it is recognized that development was approved utilizing the PRD prior to 2009 which was less traditional and more suburban in form. Therefore, the following special provisions shall apply to amendments to projects where such project was initially approved prior to 2009:

- A. The Lot and Building requirements set forth in Section 4-107 shall not apply; instead, projects shall adhere to the lot and building requirements approved as part of the initial approval.
- B. The items required under Section 4-113.C for the Concept Development Plan submittal shall not be required; instead, the information submitted on the approved Concept Development Plan shall be sufficient (with proposed amendments shown).
- C. The items required under Section 4-113.D for the Code of Development shall not be required; instead, the architectural standards required and approved under the initial rezoning shall be sufficient (with proposed amendments shown).
- D. The standards for approval set forth in Section 4-114 shall not apply; rather the standards listed below, which were in place prior to 2009 utilized to evaluate the initial approval, shall also apply in consideration of any amendment:
 1. The development is located within an area designated in the Comprehensive Plan for planned residential development and is consistent with the phasing of the Comprehensive Plan.
 2. The development is of such design that it will result in a development achieving the adopted goals of the Comprehensive plan and the stated purposes of the PRD more than would development under a conventional zoning district.
 3. The development efficiency utilizes the available land and protects and preserves to the extent possible all scenic assets and natural features such as trees, streams, and topographic features.
 4. The development is designed to prevent substantial negative impact the use and value of existing surrounding development, and shall not hinder, deter or impede development of surrounding undeveloped properties in accordance with the adopted Comprehensive Plan.
 5. The development shall be located in an area in which transportation, police and fire protections, other public facilities and utilities, including water and sewer, are or will be available and adequate for the uses proposed; provided, however, that the applicant may make provision for such facilities or utilities which are not presently available.

PART 2**4-200 AFFORDABLE HOUSING OVERLAY DISTRICT (AH)****4-201****Purpose and Intent**

The Affordable Housing Overlay District is established to promote a full range of housing choices and to encourage the construction of low and moderately priced housing units for purchase by eligible households as defined in Article 15 of this Ordinance. It is the specific intent of this district to allow for qualifying residential developments additional density, design flexibility and special processing procedures to serve as incentives for the construction of housing for low and moderate income households.

4-202

Applicability and Establishment of the Overlay District

- A. The Affordable Housing District is hereby established as an overlay district, meaning that it is a district overlaid upon other zoning districts. This overlay district is established and applicable only to lots of record as of January 1, 1996, that are larger than 1 acre and 25 acres or less; that are zoned one of the following residential districts: R-1, R-2, R-4 or TH; and that are in Service Districts as designated in Fauquier County which as of January 1, 1996, are served by public sewer and central water. Service Districts acquiring public sewer and central water after January 1, 1996, may be added to the overlay district by amendments initiated pursuant to Section 13-202 of this ordinance. Land within this overlay district remains subject to the rules and regulations of the underlying zoning district unless otherwise stated below.
- B. The provisions of this ordinance are not applicable to parcels rezoned to a qualifying residential district or attaining qualifying size by subdivision or boundary adjustment after January 1, 1996.

4-203

Definitions

Definitions of affordable housing, low and moderate income and other terms applicable to this ordinance are found in Article 15 of this ordinance under the heading "Affordable Housing".

4-204

Qualifying Developments

In order to qualify as an affordable housing development within the overlay district the development must:

- A. Provide that not less than 20% nor more than 25% of the total dwelling units be constructed and made available exclusively for sale to individuals or households who meet the low and moderate income requirements as defined in Article 15. The required number of affordable dwelling units needed to qualify shall be based on the total number of units proposed including those additional units allowed as a density bonus in accordance with Section 4-205 below. When the number of dwelling units within the 20% and 25% limits stated above, is not an integer, the number shall be rounded up to the nearest integer.
- B. Be served by central water and sewer.

4-205

Density

Developments that qualify as affordable housing under provisions of this ordinance shall be entitled to a density bonus of up to 100% of the zoning density of the underlying zoning district, provided that the density not exceed the designated Comprehensive Plan density. The density bonus for townhouses, however, shall not exceed 50%. Notwithstanding the above, the maximum number of dwelling units allowed on any one single parcel shall not exceed 50.

4-206

General Regulations

The following additional regulations shall apply to qualifying affordable housing developments:

- A. Dwelling units shall be single family attached if the density exceeds six dwelling units per acre.

- B. Dwelling units designated as affordable housing units shall be built with an exterior appearance similar to other housing units and shall be interspersed with other, market-rate dwelling units in the development.
- C. Lots and units for the provision of affordable housing shall be specifically identified on all plans and plats submitted in accordance with Section 4-209 below and Appendix C.
- D. The construction and sale of such units shall be phased with the construction and sale of affordable units matching the construction and sale of market-rate units in accordance with the following:

<u>Market-Rate Occupancy Permits Allowed</u>	<u>Required Occupancy Permits for Affordable Housing Units</u>
up to 25% of total units	25%
up to 50% of total units	50%
up to 75% of total units	75%

- E. Prior to the recordation of plats for lots created using the additional allowable density provisions or other special provisions of this or other special provisions of this or other ordinance relating to affordable housing, the applicant for such lots must provide assurance to the County in a Developer's Agreement or other form acceptable to the County that dwellings to be constructed on the lots shall be sold only to buyers meeting the income eligibility requirements as defined in Article 15 of this Ordinance.
- F. Developments of ten or more dwelling units on lots of 10,000 square feet or less shall provide active recreation areas on the basis of 100 square feet per dwelling unit. Such areas may include, but not be limited to playfields with play structures, multipurpose courts and similar facilities.

4-207 Lot and Building Regulations

Except as may be modified pursuant to Section 4-208 below, lot size, lot widths, yards and setbacks, height limits, road frontage and access shall be the same as specified in this Ordinance for the effective zoning district that results from any density increase.

4-208 Modifications

The Board of Supervisors may, after review and recommendation by the Planning Commission, modify the regulations of the Zoning and Subdivision Ordinance relating to lot and building regulations upon application by the developer and upon a finding that the proposed modifications, although not literally in accord with the applicable regulations, will satisfy the public purposes of the ordinance and regulations.

4-209 Procedures

In order to encourage and to expedite affordable housing, subdivision applications for developments qualifying under provisions of this Ordinance may be given, upon request of an applicant and a determination of qualification by the Director of Community Development, special and priority processing as an Affordable Housing Development Plan. Such applications will be reviewed and approved by the Planning Commission in lieu of the Preliminary Plat for Subdivision required for other applications. Procedures are:

- A. Qualifying Applications that do not Require Modification Approval:

1. Affordable Housing Development Plans shall be submitted to the Department of Community Development in accordance with the procedures in Section 9 of Appendix C (the Fauquier County Subdivision Ordinance) of this Ordinance. Staff and referral agency review shall be on an expedited basis and shall include one or more meetings as required of Community Development staff, referral agencies and the applicant prior to Planning Commission review and action.
 2. The Planning Commission shall act on the proposed application no later than the next Planning Commission Meeting following its initial consideration unless the applicant requests additional time. The action of the Planning Commission shall be subject to Board of Supervisors review in accordance with Section 9-7 of the Subdivision Ordinance.
 3. Final plats of subdivision shall be processed in accordance with Section 10 of Appendix C.
- B. Applications Requiring Modifications

Applications requiring modifications in accordance with Section 4-206 above shall be processed in the same manner as described in Section 4-207(A) above, except that following the initial Planning Commission review, the application shall be referred to the Board of Supervisors with Planning Commission recommendation on the modifications requested. Final Planning Commission action will be deferred until the Board of Supervisors has acted on the modifications.

PART 3

4-300 HISTORIC AREA DISTRICT

4-301

Designation and Intent

1. **Designation:** Districts may hereafter be created which are designated as Historic Area (HA) Districts within the definition of historic area found in Section 15.2-2201, Code of Virginia. Said districts may be created only by amendment of the Zoning Ordinance as provided in Part 2 of Article 13.
2. **Intent:** For the purpose of promoting the general welfare, education and recreational pleasure of the public through the perpetuation of those general areas or individual structures and premises which have been officially designated by the Board as having historic or architectural significance, historic districts are created. Regulations within such districts are intended to protect against destruction of or encroachment upon such areas structures and premises; to encourage uses which will lead to their continuance, conservation and improvement in an appropriate manner; and to assure that new structures and uses within such district will be in keeping with the character to be preserved and enhanced. It is further the intent of this Ordinance that the Board along with the Commission, shall seek and obtain the advice and assistance of the Architectural Review Board (ARB), created herein, as well as other organizations or individuals qualified by interest, training and experience in achieving the objectives set forth.

3. No provision of this Part 3, of Article 4 shall apply to any Rural Historic District as designated by the Commonwealth of Virginia or the U. S. Department of Interior.

4-302

Creation and Composition of Architectural Review Board: Appointment Term, Vacancies and Powers

See Part 3 of Article 14.

4-303

Historic District Boundaries Generally

1. **Character:** The historic district boundaries shall in general be drawn so as to include only lands closely related to and bearing upon the character of the historic site or sites, thus providing a landscape unit and affording transitional regulations needed to control potentially adverse influences. Said boundary shall include land on both sides of a street or streets where desirable to accomplish the preservation objective. The concept of historic landmarks shall include groupings of structures which have significance relative to their patterns of development and/or interrelationship among such structures, while some of the structures might not possess significant merit when considered alone.
2. **Establishment of an Amendment to Historic District Boundaries and Regulations:** The ARB may propose to the Commission and/or the Board such amendments as deemed appropriate, including the establishment of historic districts and revision of existing historic districts. Upon receipt of said proposal, the Board may initiate such amendment pursuant to Article 13 of this Ordinance. The ARB shall prepare and submit a report to substantiate the proposed amendment. Such report shall establish and define the historic district boundaries as well as the historic and/or architectural significance of the buildings, structures or sties to be protected; special characteristics, qualities and/or fabric to be preserved; and describe current planning, present trends, conditions and desirable public objectives for preservation.
3. **Guidelines:** Criteria for evaluating the merits of a district shall be based on architectural aesthetics as well as historical factors. Certain buildings or areas, although not associated with a historic personage or event may be valuable examples of the County's physical and cultural heritage. Structures of County significance shall be evaluated as well as those of State and National significance. In addition, such evaluation shall be based on the following specific matters:

A. **Architectural Style:**

The evaluation shall respect the qualities of each architectural style and shall judge a structure's merit on how well it exemplifies the distinguishing characteristics of said style. Consideration will be given to:

- (1) Significance of architectural design;
- (2) Scale and/or interrelationship of structures and/or environmental features.

- (3) Significant patterns of development;
- (4) Quality of workmanship;
- (5) Amount of surviving original fabric;
- (6) Original location and/or use;
- (7) Remaining outbuildings or dependencies;
- (8) Surrounding environment, gardens, landscaping, walks;
- (9) Overall aesthetic quality;
- (10) Original integrity of the structure and its details.

B. Historic and/or Cultural Significance:

Structures or spaces relating to one or more of the following criteria will be considered historically or culturally valuable:

- (1) Association with historic personage;
- (2) Association with historic events;
- (3) Work of leading architect or master craftsman;
- (4) Site or structure of cultural significance.

In addition sole or infrequent surviving building types and structures not historic in themselves but adding to the character of a historic area need to be looked at as potentially deserving preservation.

4. Additional Required Information: In addition to historical and architectural information, the aforementioned report shall include:

- A. A description of existing structures, premises and uses likely to have an adverse effect on the desired character of the district, including those near and visually related to the district, with maps, photographs and other data indicating the reasons for such an effect.
- B. An analysis of lands not occupied by structures, including lands near and visually related to the district. For public lands, ownership, use and location shall be indicated. For private lands, assessed valuation shall be added as well as existing zoning and planned use.
- C. Recommendations concerning detailed regulations to be applied with the district, to supplement or modify general regulations set forth herein, may include permitted and prohibited principal and accessory uses and structures, minimum lot and yard requirements, maximum lot coverage by all buildings, maximum height of structures, off-street parking and loading requirements, control of signs and exterior illumination, control of integral facade changes to existing buildings

where said controls and regulations are only for the express purpose of preventing changes which are architecturally incompatible with buildings, structures or sites to be preserved.

5. **Action by the Board of Supervisors:** The creation of a historic district shall include a declaration that the landmarks, buildings, structures, or sites to be preserved are in fact of historical and/or architectural significance requiring protection against destruction and encroachment; that the designation of individual structures and premises of substantial public interest and or structures, premises and uses likely to have an adverse effect shall be used as an administrative guide; and that all stated recommendations of the ARB supplementing or modifying general regulations set forth herein are adopted by reference and are to be applied to the district created.

4-304

District Regulations

Within the historic district, the following regulations shall apply:

1. **New Construction, Reconstruction and Exterior Alterations:** No buildings or structures, including signs, shall be erected, reconstructed, restored or substantially altered in exterior appearance within the historic district unless the same is approved by the Board, acting upon the advice of the ARB as being architecturally compatible with the historic, aesthetic, cultural and/or architectural aspects of the landmark. "Substantial alterations" shall be defined as any and all work done on landmarks, buildings or structures in a historic district other than the following:

Work done to prevent deterioration or to replace parts of a structure in order to correct any deterioration, decay or damage to any structure or on any part thereof, or to restore same as nearly as practical to its condition prior to such deterioration, decay or damage to any structure or on any part thereof. (Examples of work not constituting "substantial alterations" include repainting in the existing color, replacing missing slates from a roof and replacing broken window panes. Examples of work constituting "substantial alterations" include adding or removing from a structure any openings, chimneys, shutters, columns, stairs, structural elements or appendages; changes in the size, shape or location of any structure on a site; changes in the color, texture or materials on the exterior of a structure). In any case in which there might be some question as to whether a project may constitute "substantial alterations," the Zoning Administrator will be contacted for an interpretation prior to commencement of work.

2. **Matters to be Considered in Passing upon the Appropriateness of the Construction, Reconstruction or Exterior Alteration of Buildings or Structures by the Board:** The Board shall not consider interior arrangements and shall not make any requirements except for the purpose of preventing development incongruous to the old and historic aspect of the surroundings.

The Board shall consider the following in passing upon the appropriateness of architectural features:

- A. Exterior architectural features including all signs;
 - B. General design, scale and arrangement;
 - C. Texture, material and color;
 - D. The relation of features 1, 2, and 3 above to similar features of buildings and structures in the immediate surroundings;
 - E. The extent to which the building or structure would be harmonious with or incongruous to the old and historic aspects of the surroundings. It is not the intent of this consideration to discourage contemporary architectural expression or to encourage the emulation of existing buildings or structures of historic or architectural interest in specific detail. Harmony or incompatibility should be evaluated in terms of the appropriateness of materials, scale, size, height, placement and use of the new building or structure in relationship to existing buildings and structures and to the setting thereof;
 - F. The extent to which: the building or structure will preserve or protect historic places and areas of historic interest; retention of the building or structure would promote the general welfare of the County by encouraging study of American History, architecture and design or by developing an understanding of the importance and value of the American Culture and heritage as well as by making the County a more attractive and desirable place in which to live.
3. **Demolition:** No building or structure within the district shall be demolished, removed or substantially altered in exterior architectural features or appearance, including the placement of signs, until a certificate of approval is issued by the Board, acting on the advice of the ARB.
4. **Matters to be Considered in Determining Whether or Not to Grant a Permit for Razing or Demolition:** The Board shall consider any or all of the following criteria in determining whether to grant a permit for razing or demolition:
- A. Is the building or structure of such architectural or historic interest so that its removal would be detrimental to the public interest?
 - B. Is the building of such old, unusual or uncommon design, texture and/or material that it could only be reproduced with great difficulty and/or expense?
 - C. Would retention of the building or structure help preserve and protect a historic place or area of historic interest in the County?
 - D. Would retention of the building or structure promote the general welfare of the County by encouraging study of American history, architecture and design, or by developing an understanding of the importance and value of the American culture and heritage as well as by making the County a more attractive and desirable place in which to live?

5. **Offer for Sale:** The owner of a building or structure in a historic district shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that:
 - A. He has applied to the Board for a demolition permit;
 - B. The owner has for the period set forth in the time schedule contained hereinafter at a price reasonably related to its fair market value as determined by independent appraisal, make a bona fide offer to sell land pertaining thereto, to such person, firm, corporation, government or agency, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto;
 - C. No bona fide contract binding upon all parties thereto, shall have been executed for the sale of any such building or structure, and the land pertaining thereto, prior to the expiration of the applicable period as set forth in the time scheduled contained hereinafter. Any appeal which may be taken to court from the decision of the Board shall not affect the right of the owner to make a bona fide offer to sell. Offers to sell as provided in "Subparagraph B shall be made within one year of the date of application to the Board.
6. **Time Schedule for Offers for Sale:** The time schedule for offers to sell shall be as follows:
 - A. Three (3) months when the offering price is less than twenty-five thousand dollars (\$25,000);
 - B. Four (4) months when the offering price is twenty-five thousand dollars (\$25,000) or more, but less than forty thousand dollars (\$40,000);
 - C. Five (5) months when the offering price is forty thousand dollars (\$40,000) or more, but less than fifty-five thousand dollars (\$55,000);
 - D. Six (6) months when the offering price is fifty-five thousand dollars (\$55,000) or more, but less than seventy-five thousand dollars (\$75,000);
 - E. Seven (7) months when the offering price is seventy-five thousand dollars (\$75,000) or more, but less than ninety thousand dollars (\$90,000);
 - F. Twelve (12) months when the offering price is ninety thousand dollars (\$90,000) or more.
7. **Hazardous Buildings or Structures:** Nothing in this Article shall prevent the razing or demolition of any building or structure without consideration of the Board which is in such an unsafe condition that it would endanger life or property, and protection from such condition is provided for in the Building Code and/or other applicable legislation in

Fauquier County. Such emergency razing or demolition of a building or structure in a historic district shall not be commenced without written approval of the Zoning Administrator verifying the conditions necessitating such action.

8. **Demolition by Neglect:** However, no officially designated historic landmark, building or structure within any such historic district shall be allowed to deteriorate due to neglect by the owner which would result in violation of Paragraphs 1 and/or 4 above. Such action shall be termed "demolition by neglect" and shall include any one or more of the following:
 - A. Deterioration of the exterior of a building to the extent that it creates or permits a hazardous or unsafe condition;
 - B. Deterioration of exterior walls or other vertical supports horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, brick, plaster or mortar to the extent that it adversely affects the character of the historic district or could reasonably lead to irreversible damage to the structure;
 - C. Action by the County or State authority relative to the safety or physical condition of any building.

In the event that the Zoning Administrator determines that a structure in a historic district is being "demolished by neglect," he shall so notify the owner of this conclusion, stating the reasons therefore, and shall give the owner 15 days from the date of the notice in which to commence work rectifying the specifics provided in the notice, or to initiate proceedings in accordance with paragraph 2 or 4. If appropriate action is not taken in this time the Zoning Administrator will initiate appropriate legal action as provided herein.

9. **Moving or Relocation:** No officially designated historic landmark, building or structure within the district shall be removed or relocated where such moving is detrimental to the public interest or where said relocation would be obviously incongruous to the historic aspects of the structure and/or the historic district unless the same is approved by the Board, acting upon the advice of the ARB.
10. **Matters to be Considered in Determining the Appropriateness of Moving or Relocating a Landmark Building or Structure within a Historic District:**
 - A. Would the proposed relocation have a detrimental effect on the structural soundness of the landmark building or structure?
 - B. Would the proposed relocation have a detrimental effect on the historic aspects of other landmarks in the district?
 - C. Would the proposed relocation provide new surroundings that would be harmonious with or incongruous to the historical and architectural aspects of the landmark, structure or building?

- D. Would the proposed relocation help preserve and protect a physical element of historic value in the County?
- E. Would the proposed relocation promote the general welfare of the County by encouraging study of American history, architecture and design, or by developing an understanding of the importance and value of the American culture and heritage as well as by making the County a more attractive and desirable place in which to live?

11. **Uses Permitted:** Within the Historic District, all uses shall be permitted pursuant to the official zoning map. General regulations shall be the same as provided within the respective underlying zoning districts except where such regulations are modified or amended as set forth in this Article.

No new structure (or change in the present use of an existing structure) shall be permitted where the operational characteristics of the use would be obviously incongruous with the historic character of the district as established and specifically recorded in accord with the provisions of Section 4-303 above, where such decision is made by the Board after consultation with the ARB and the Commission.

12. **Lot Regulations:** Lots or portions of lots existing in historic districts may be combined, but no existing lot or combination of lots, parcels or portions thereof, in single ownership at the time of district creation, shall be reduced in width, depth or area without the approval of the Board, acting on the advice of the ARB.

13. **Height Regulations:** Height regulations shall be in accord with those governing the permitted use except where such heights would be obviously incongruous to the historic district or otherwise in conflict with the recommendation adopted pursuant to Paragraph 4-303.5.

14. **Off-Street Parking:** Off-street parking regulations shall be in accord with those governing the permitted use except that no required off-street parking or loading space shall be located in any required front yard. It is the intent of these regulations to permit off-street parking where on-site parking would have an adverse effect on the appearance of the property or the district in general. It is also intended to encourage provisions of such off-street parking in grouped facilities in interior parking lots, courts, anonymous structures or at other appropriate locations which will be convenient to pedestrians and vehicular traffic and generally promote public safety.

15. **Signs, Exterior Illuminations** Within the historic district, no signs shall be permitted except for advertising or informing the public of service, business, occupation or profession conducted on, in or about the premises. In addition, no sign allowed by this Ordinance shall be permitted if the Board, acting on the advice of the ARB, finds such sign to be architecturally incompatible with the historic and/or architectural character of the landmark.

16. **Exceptions:** Where the strict interpretation of the purpose of these proceedings or subsequently adopted regulations or standards contradicts existing building, sanitary or other codes, the ARB shall make

recommendations for reasonable exemptive relief after consultation with qualified technical authorities or with any appeal board now or hereafter established by code. In other cases of conflict between this and other regulations the more strict between the two shall apply.

4-305

Administration

1. **County Zoning Administrator:** The County Zoning Administrator shall not authorize a permit for any erection, reconstruction, integral exterior facade change, demolition or razing of a building or structure in the Historic District until the same has been approved by the Board, following the procedures set forth hereafter.
2. Upon receipt of an application for each permit in the historic district, the Zoning Administrator shall act in accordance with the existing procedures of his office except if those procedures are necessarily modified by the following requirements:
 - A. He shall forward to the ARAB a copy of the application for such a permit, together with a copy of the site plan and the building plans and specifications filed by the applicant.
 - B. He shall maintain in his office a record of all such applications and of his handling and final disposition of the same.
 - C. He shall require applicants to submit a sufficient number of additional copies of materials required for compliance with the foregoing.
3. **Materials to be Submitted for Review:** By general rule, or by specific request in a particular case, the County Community Development and Zoning Office and the ARB may require submission of any or all of the following in connection with the application: architectural plans, site plans, landscaping plans, design for proposed signs with appropriate detail as to character, proposed exterior lighting arrangements, elevations of all portions of structure with important relationships to public view (with indications as to visual construction materials, design of doors and windows, colors and relationships to adjoining structures), and such other exhibits and reports as are necessary for these determinations. Requests shall be accepted only from a record owner of the land involved in such proposal.
4. **Fees:** The Board shall establish by resolution from time to time a schedule of fees for the examination and approval or disapproval of proposals submitted in accordance with this Article.
5. **Other Approvals Required:** In any case in which an applicant's proposal also requires the approval of the BZA, final action by the BZA shall precede final action by the ARB. The BZA, may, however, table a proposal to request the comments of the ARB. Final action by the ARB shall be taken prior to consideration by the Commission of proposals requiring site plan approval. Preliminary subdivision plats shall be reviewed and commented upon by the ARB prior to final action by the Commission. The ARB's comments shall be forwarded to the Commission and, in turn, to the Board.

6. **Report of the Architectural Review Board:** If the ARB, on the basis of the review of information received from the applicant, decides to counsel against the granting of a permit, it shall indicate to the applicant the changes in plans and specifications, if any which, in the opinion of the ARB, would protect and/or preserve the historical aspects of the landmark, building, structure or district. If the applicant determines that he will make the suggested changes, he shall so advise the ARB which shall counsel the Board accordingly.

The ARB shall submit to the Board in writing and within ninety (90) days after submission of the application, its counsel concerning the appropriateness of authorizing a permit for the erection, reconstruction, significant exterior alteration, restoration, razing or demolition, or relocation of all or part of any building within the historic district.

7. **Actions of the Board of Supervisors Concerning Applications for Permits:** Upon receipt of the written counsel from the ARB, the Board shall consider the question of authorizing the Zoning Administrator to grant or deny a permit for the action specified in the application. The applicant shall be notified by the Zoning Administrator of time and place of the meeting at which his application will be considered and shall have right to attend and be heard as to his reasons for filing same. All other shall also have the right to attend the hearing. In determining whether to authorize a permit, the Board shall consider those factors presented in the report of the ARB, and shall be guided by the general standards of "Architectural Compatibility."

If the Board approves an application, it shall authorize the Zoning Administrator to issue a permit for the work so specified in said application.

If the Board disapproves, it shall be so in writing and copies shall be given to the applicant and the Zoning Administrator. The disapproval shall indicate what changes in the plans and specifications would enable the proposal to meet conditions for protecting and preserving the historical character of the district.

In the case of disapproval, the application shall not be resubmitted for consideration until twelve (12) months have elapsed from the date of disapproval unless the indicated changes in plans and specifications required to meet the conditions for protecting the district have been incorporated into the reapplication.

Upon receipt of the Board's written disapproval, the Zoning Administrator shall disapprove the application for the required permit and so advise the applicant. The applicant may appeal the disapproval as provided by law and herein below.

The Zoning Administrator shall have the power to institute any proceedings at law or in equity necessary for the enforcement of this Article in the same manner as in the enforcement of the other sections of this Ordinance as presently enacted and as the same may be amended.

4-401

Purpose and Intent

The Floodplain District (FP) is created for the purpose of protecting the public health, safety and general welfare with respect to this most sensitive area which is subject to flooding and is environmentally important as a resource. It is also vital to maintenance of surface and groundwater quality and quantity. Regulations within the district are intended to protect the area as a resource and to ensure that uses will not significantly increase flooding potential or unnecessarily expose persons to the hazards of flooding.

4-402

District Boundaries

The floodplain district shall include all areas subject to inundation by the waters of the one hundred year flood, including all areas within the FEMA floodway district and the FEMA special floodplain district. The basis for the delineation of the floodplain shall be the Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) issued under the National Flood Insurance Program (February 6, 2008, and the most recent revisions thereto as promulgated by DHS/FEMA).

4-403

District Boundary Changes

The delineation of the boundary may be revised by the Board in the same manner and by the same procedures set forth in Article 13 where natural or manmade changes have occurred and/or the need for such changes has been documented by more detailed studies conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agencies or individuals. However, prior to any such change which necessitates a change to the floodplain delineation by the Flood Insurance Study, approval must be obtained from the Federal Insurance Administration. See also Section 4-406.

4-404

Interpretation of District Boundaries

The Zoning Administrator shall make the decision as to the exact location of the floodplain using the best data available at the time.

4-405

Permitted Uses

In the Floodplain District, the following uses and activities are permitted provided they are in compliance with the provisions of the underlying district; are not prohibited by any other ordinance provided they do not require structures, fill or storage of material and equipment except as explicitly authorized with each use listed; and provided they meet the use limitations set forth in Section 4-107. (Note: Except as provided in Section 4-406, floodplain boundaries shall not be altered by filling or the use of dikes or other engineering practices).

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting; structures shall be limited to open fences, including water-gates; and water mills, with only the waterwheel portion of the water mill allowed within the floodplain.

- a. Floodplain crossings, including culvert crossings, which are being constructed in conjunction with federal stream crossing guidelines and a conservation plan approved by the John Marshall Soil and Water Conservation District (JMSWCD) Board. These uses are exempt from the use limitations in Section 4-107.
2. Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas; structures shall be limited to: trails, including footbridges; open buildings such as pavilions and gazebos; open fences; and recreational structures such as play equipment, picnic benches, etc., provided such structures are securely anchored to the ground.
3. Accessory residential uses such as yard areas, gardens, play areas and pervious loading areas.
4. Accessory industrial and commercial uses such as yard areas pervious parking and loading areas pervious airport landing strips, etc.
5. Private residential streets and driveways, including necessary fill and drainage infrastructure, serving three or fewer lots. The maximum of three lots shall be cumulative for any such street or driveway.
6. Improvements to existing public streets, including necessary fill and drainage infrastructure, where required by the County or Virginia Department of Transportation in conjunction with a land development application.
7. Underground public and private utilities, except wells.

4-406

Special Exception Uses

The following uses and activities may be permitted by special exception provided they are in compliance with the provisions of the underlying district, satisfy the applicable standards contained in Article 5, are consistent with the use limitations set forth in Section 4-407, and are not prohibited by this or any other ordinance, and cause no increase in flood heights and/or velocities. (Note: All uses, activities and developments shall be undertaken in strict compliance with the flood-proofing provisions contained in this and all other applicable codes and ordinances including, but not limited to, the Fauquier County Subdivision and Site Development Plan Ordinances and the Virginia Uniform Statewide Building Code).

1. Structures, except for dwelling units, accessory to the use and activities in Section 4-405 above.
2. Utilities and public facilities and improvements such as railroads, bridges, transmission lines, pipelines, water and sewage treatment plants, and other similar or related uses.

3. Public and Private Streets other than those authorized by 4-405.5 and 6 above.
4. Water-related uses and activities such as marinas, docks, wharves, piers, etc.
5. Extraction of sand, gravel, and other materials.
6. Temporary uses such as circuses, carnivals, and similar activities.
7. Storage of material and equipment.
8. Other similar uses and activities provided they cause no increase in flood heights and/or velocities.

4-407

Use Limitations

1. The placement of any dwelling unit in a floodplain is prohibited.
2. The placement of any structure in a floodway is prohibited.
3. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch or any other drainage facility or system which would increase flood heights and/or velocities.
4. All streets located in floodplains including those permitted in Section 4-405.5., shall meet all applicable state and federal requirements.
5. Prior to any proposed relocation of any channels or floodways, of any watercourse, stream, etc., approval shall be obtained from the State Water Control Board, the Virginia Marine Resources Commission, and from the U. S. Army Corps of Engineers, if required. Further notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notification shall be forwarded to the Dam Safety and Floodplain Management (Department of Conservation and Recreation), and the Federal Insurance Administration.

4-408

Existing Structures in a Floodway

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

1. Existing structures and/or uses located in the Floodplain District shall not be expanded or enlarged (unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements).
2. Any modification, alteration, repair, reconstruction or improvements of any kind to a structure and/or use regardless of its location in a floodplain to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with the provision of the Virginia Uniform Statewide Building Code.

3. Uses or adjuncts thereof which are or become nuisances shall not be permitted to continue.

4-409 **Maximum Density**

The procedure for computing maximum allowable density in the FP District is set forth in Section 2-308.

4-410 **Records of Construction**

Records of lowest floor elevations and flood-proofing levels shall be provided by the developer or landowner to the County Building Official in accordance with such standards and procedures as he may require. Such records shall show whether such structures contain a basement and shall be maintained by the Building Official. The Zoning Permit shall show the elevation of the one hundred (100) year flood.

4-411 **Variances**

In addition to the standards set forth in Section 13-404, the Board of Zoning Appeals shall consider the following additional factors for any variance within the floodplain:

1. The showing of good and sufficient cause.
2. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.
3. The danger that materials may be swept on to other lands or downstream to the injury of others.
4. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
5. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
6. The importance of the services provided by the proposed facility to the community.
7. The requirements of the facility for a waterfront location.
8. The availability of alternative locations not subject to flooding for the proposed use.
9. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

10. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
11. The safety of access by ordinary and emergency vehicles to the property line in time of flood.
12. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
13. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
14. Such other factors which are relevant to the purposes of this ordinance.

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

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief from exceptional hardship to the applicant.

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

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

PART 5

4-500

AIRPORT AREA DISTRICT (AP)

4-501

Purpose and Intent

The Airport Safety and Impact Overlay District (APSID) is intended to acknowledge the unique safety regulation requirements of airports on airport land and adjacent land areas and unique impacts, such as noise, on adjacent land. This overlay district is intended, in accordance with the provisions of Section 15.2-2294 of the Code of Virginia, to provide for the regulation of the height of structures and natural growth for the purpose of protecting the safety of air navigation and the public investment in

air navigation facilities. It is also intended to provide restrictions on uses which may impact aircraft safety by interference with aircraft electronics, pilot visibility and other aspects of safety of flight. Finally, it is the intent of this overlay district to regulate the location in the immediate vicinity of an airport of uses that are noise sensitive.

4-502 Applicability of the Overlay District

The overlay district shall apply to licensed, public-use airports located in Fauquier County and to land areas in Fauquier County adjacent to a licensed, public-use airport in adjacent jurisdictions. Initial applicability will, therefore, be to the Warrenton-Fauquier Airport in Midland and to certain land in Fauquier County adjacent to the Culpeper Regional Airport.

4-503 Overlay District Established

The Airport Safety and Impact Overlay District, is hereby established as an overlay district, meaning that it is a district overlaid upon other zoning districts. Land within an Airport Safety and Impact Overlay District remains subject to the rules and regulations of the underlying zoning district, but subject to the additional regulations and restrictions of the overlay district as set forth above.

4-504 District Boundaries Defined

Boundaries of the Airport Safety and Impact Overlay District shall be based on airport safety zones and airport noise impact areas. The safety zones are the approach, transitional, horizontal and conical zones. The airport noise impact areas are based on established noise contours defined in terms of Ldn values. Definitions relating to these terms are in Article 15 of this ordinance under the subject Airport Safety and Impact Definitions.

(A) Safety Zones

All of the areas and airspace of Fauquier County lying equal to and above the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to the Warrenton-Fauquier Airport and Culpeper Regional Airport and to future licensed, public-use airports in Fauquier County are established as overlay zones and subject to these ordinance provisions. An area located in more than one of the zones is considered to be only in the zone with the most restrictive height limitation.

The source and specific geometric design standards for these zones are determined by the Federal Aviation Administration (FAA) and contained in Part 77 of Title 14 of the Code of Federal Regulations. Definitions of these zones (along with definitions associated with other terms in this ordinance) are found in Article 15, Definitions. Specific map delineation for the airport and areas subject to this overlay district are in the following:

- 1) Warrenton-Fauquier Airport:

 Airport Master Plan Warrenton-Fauquier Airport adopted July 6, 1993.
- 2) Culpeper Regional Airport:

Culpeper Regional Airport Airspace Protection Zone (Part 77, Surface, dated May 15, 1995).

(B) Noise Impact Areas

The Airport Safety and Impact Overlay District boundaries shall be based on the 60 and 65 Ldn noise contours and an area that extends one (1) mile beyond the Ldn 60 contours.

The source and specific delineation of the Ldn 60 and 65 noise contours are based on:

Warrenton-Fauquier Airport: Airport Master Plan

4-505

Airport Safety Zone Height Limitations and Use Restrictions

(A) Airport Safety Zone Height Restrictions

Except as otherwise provided for in this ordinance, no structure shall be erected, altered or maintained and no vegetation shall be allowed to grow to a height so as to penetrate any referenced surface, also known as the floor, of the approach, conical, horizontal or transitional zone. The height restrictions, or floors, for the individual zones shall be those delineated in the Warrenton-Fauquier Airport Master Plan and the Culpeper Regional Airport Airspace Protection Zone (Part 77, Surface) and as these floors may be subsequently amended. In addition, there shall be no construction within twenty thousand (20,000) feet of the runway of an applicable airport of towers, mono-poles or other similar tall structures, including silos that might violate the zones of this ordinance without review and approval by the Federal Aviation Administration.

(B) Notwithstanding any other provisions of this ordinance, and within the area below the horizontal limits of any zone established by the ordinance, no use shall be made of any land or water in such a manner as to:

- 1) Create electrical interference with navigational signals or radio communications between the airport and aircraft;
- 2) Diminish the ability of pilots to distinguish between airport lights and other lights;
- 3) Result in glare in the eyes of pilots using the airport;
- 4) Impair visibility in the vicinity of the airport;
- 5) Create the potential for bird strikes; or
- 6) Otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft in the vicinity of and intending to use the airport.

Airport Noise Impact Areas Use Limitations

In addition to the use limitations and regulations for the zoning district over which an Airport Safety and Impact Overlay District is located and the limitation and use restriction based on airport safety zones as described above, the following use limitations shall apply:

- (A) Within noise contour areas of Ldn 65 or higher, new residential dwellings and additions to existing dwellings shall not be permitted. However, new dwelling units and additions to existing dwelling units may be permitted, provided that:
- 1) The lot was recorded or had record plat approval prior to the effective date of adoption of this ordinance; and
 - 2) The new dwelling unit or addition incorporates acoustical treatment to ensure that interior aircraft noise levels within living areas (not including garages, sunrooms or porches) will not exceed a sound level of 45 db(A).
- (B) In areas between the Ldn 65 and 60 aircraft noise contours new residential dwelling construction shall be allowed subject to the following requirements:
- 1) Full Disclosure Statement

Prospective buyers of new lots and new homes shall be notified in writing by applicants seeking to create new lots or build new residences that the lot/home is located within an area that will be impacted by aircraft overflights and aircraft noise. Such notification shall be accomplished by inclusion of this information in all sales contracts, brochures and promotional documents, including any "Illustrative Site Plans" on display within any sales related office, as well as in Homeowners Association Documents, and by inclusion on all subdivisions and site plans, and within all Deeds of Conveyance.
 - 2) Acoustical Treatment

The new dwelling unit shall incorporate acoustical treatment to insure that interior aircraft noise levels within living areas (not including garages, sunrooms or porches) will not exceed a sound level of 45 db(A).
 - 3) Avigation Easements

Prior to approval of a Record Plat creating new residential lots, or for existing lots of record, prior to the issuance of a zoning permit, the owner(s) of such parcel or parcels shall dedicate an avigation easement to the airport owner, indicating the right of flights to pass over the property as a means of securing the long-term economic viability of the airport.
- (C) In areas outside of, but within one (1) mile of the Ldn 60

aircraft noise contour, new residential construction shall be allowed subject to the requirement of the Full Disclosure Statement described above.

4-507 **Nonconforming Uses**

A nonconforming use is defined as any pre-existing or object of natural growth that is existing at the time this ordinance comes into effect and which is inconsistent with the provisions of this ordinance or any amendments thereto. Except as provided below, the regulations prescribed by this ordinance shall not require the removal, lowering, or other change or alteration of any structure or vegetation not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained in this ordinance shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and has been diligently prosecuted. Also, the general provisions of Article 10 of the Zoning Ordinance relating to nonconforming uses are applicable to this ordinance as well.

Notwithstanding the above paragraph, the owner of any existing nonconforming structure or vegetation is hereby required to permit the installation, operation, and maintenance thereon of whatever markers and lights might be deemed necessary by the FAA, the Virginia Department of Aviation, or the Zoning Administrator to indicate to operators of aircraft the presence of an airport obstruction. These markers and lights shall be installed, operated and maintained at the expense of airport owners and not the owner of the nonconforming structure in question.

4-508 **Permits, Variance and Appeals**

The provisions of Article 13 of the Zoning Ordinance shall apply.

PART 6 **PLANNED COMMERCIAL INDUSTRIAL DEVELOPMENT DISTRICT (PCID)**

4-601 **Purpose and Intent**

The Planned Commercial Industrial Development (PCID) District is intended to permit development in accordance with the Comprehensive Plan of a mixed-use limited commercial and light industrial park which is under one ownership or control. Planned Commercial Industrial Developments shall be planned and developed as a single entity, subject to an approved Development Plan. The PCID shall be designed with a park-like atmosphere to complement surrounding land uses by means of appropriate siting of buildings and service areas, attractive architecture, and effective landscape buffering which protect property values in surrounding neighborhoods. PCID Districts shall be located within Service Districts and in locations designated for such use in the Comprehensive Plan.

It is intended that these regulations provide flexibility in development by providing for a mix of compatible uses with flexibility in internal relationships of design elements. The PCID is not intended for more intensive commercial and industrial uses such as shopping malls, large-scale retail establishments and the more impactive and heavy industrial uses. Such uses are more appropriate for the existing C-2, C-3 and I-2 zoning districts.

4-602

Size and Location

The minimum area required for the establishment of a PCID district shall be 50 acres. Additional areas may be added to an established PCID if they adjoin and form a logical addition to the approved development of an established PCID. The procedure for an addition shall be the same as if an original application were filed and all requirements shall apply except the minimum acreage requirement above. The minimum acreage for such additions shall be five acres.

PCID districts shall be located in Service Districts as designated in the Comprehensive Plan. PCID districts shall have direct access to a major arterial or collector road. The PCID shall also be located within an area in the Service District that the Comprehensive Plan designates for planned commercial and industrial development and which has sufficient infrastructure to support the proposed development, including roads, public facilities and utilities, or where sufficient infrastructure is planned and expected to be in place. In cases where necessary infrastructure is not yet available, the applicant for a PCID shall make provisions for the necessary infrastructure in the development plan.

4-603

Principal Uses Permitted

Unless specifically prohibited by the approved Development Plan establishing the PCID, the following principal uses shall be permitted, subject to designations of areas and sites for such uses in the approved Development Plan and subject to the use limitations set forth in Section 4-606 below:

- Adult day care center
- Agriculture, horticulture, forestry or fishery
- Auction house
- Bakery, commercial
- Bank or financial institution
- Barber/beauty shop
- Business service and supply service establishments
- College/University
- Commuter parking lot
- Conference or training center
- Convenience stores
- Contractors' offices and shops
- Continuing care facilities
- Construction office
- Data Center using recycled water for cooling and with all new power lines, including transmission or substation feed lines, placed underground
- Day care, child care, or nursery
- Distribution facility
- Farmers market
- Health and fitness center/spa
- Indoor sports/activity centers
- Laundry, dry cleaners, laundromat
- Manufacture, processing, fabrication and/or assembly of products such as, but not limited to scientific and precision instruments, photographic equipment, communication equipment, computation equipment, drugs, medicines, pharmaceuticals, household appliances, toys, sporting and athletic goods, die-cut paperboard and cardboard, glass products made of purchased glass, electric lighting and wiring equipment, service industry machines, lithographic and printing

processes, industrial controls, radio and TV receiving sets, watches and clocks, bags and containers, sanitary paper products, optical goods, electrical machinery, wireless communications
 Medical care facility, major or minor
 Meeting halls for social, fraternal, civic, public and similar organizations
 Mobile Eating Establishments (subject to the Standards in Section 5-807 of the Zoning Ordinance)
 Motor vehicle service and repair, light
 Offices, administrative, business and professional
 Place of worship
 Plant nursery/greenhouse
 Postal Service, overnight courier collection and overnight mail distribution facility
 Printing service
 Private clubs
 Public and quasi-public uses, including but not limited to post office, library, parks and recreation facilities, governmental office and service facilities, public safety facilities (fire and rescue, police)
 Radio and television recording/broadcasting studio
 Recycling drop off collection center, small
 Repair service establishments
 Research, experimental testing, or development activities
 Restaurants
 Schools, primary and secondary
 Service Stations
 Swimming/tennis/racquet facility
 Technical schools, indoor and outdoor
 Theater, indoor
 Vehicle Transportation Service Establishments
 Veterinary Clinic
 Warehousing facilities
 Water and sewer pumping stations
 Wholesale trade establishments

4-604

Secondary Uses Permitted

The following secondary uses shall be permitted only in a PCID which contains one or more principal use; such secondary uses shall be supportive and complementary to (i.e., which serves the users of) existing permitted principal uses. Areas and sites for such uses shall be shown in the approved Development Plan and subject to the use limitations set forth in Section 4-606 below:

- (a) Parks, playgrounds, community centers and non-commercial recreational and cultural facilities which are not commercial, public or quasi-public.
- (b) Electric, gas, water, sewer and communication facilities, including transformers, pipes, meters, pump stations and related facilities for distribution of local services. Electrical substations are not included.
- (c) Temporary buildings, the uses of which are incidental to construction operations during development being conducted on the same or adjoining tract or section and which shall be removed upon completion or abandonment of such construction.

- (d) Retail sales of products manufactured, assembled or distributed by a Principal User when in a Principal Use building and under ten percent (10%) of gross floor area.
- (e) The following may be included as Secondary Uses when within a Principal Use Building: fast food or take out restaurant, barber or beauty shop, gymnasium, adult or child care facility, dry cleaners (pick up and drop off services only), financial or ATM facilities and mailing services.

4-605

Special Exception Uses

The following uses may be approved by the Board of Supervisors pursuant to the requirements of Article V:

- (a) Any use listed in Section 603 which was specifically prohibited in the original approval and any use listed in Section 604 above which was not specifically designated in the approved Development Plan establishing the PCID.
- (b) Data Center not using recycled water for cooling and with all new power lines, including transmission or substation feed lines, placed underground.
- (c) Hotel/motel
- (d) Hospital
- (e) Motor freight terminals
- (f) Retail sales with floor area less than 75,000 square feet
- (g) Shopping centers under 200,000 square feet
- (h) Commercial golf course facility
- (i) Wastewater treatment facilities; water treatment facilities
- (j) Affordable Housing, Supportive Housing and Transitional Housing Facilities when proposed for use in an existing building.
- (k) Electrical Substation
- (l) Kennel, Minor, accessory to a Veterinary Clinic, subject to standards found in Section 5-1301.2 and the following additional limitations:
 - 1) Boarding shall not exceed 10% of the total square footage of the building.
 - 2) The use shall be strictly indoors with no outdoor runs or exercise pens.
 - 3) The use shall not be located within 500 feet of a property line containing an existing or planned residential, transient housing, or institutional use.
- (m) Kennel, Major, in conjunction with a Veterinary Clinic, subject to the standards found in 5-1301.2 and the following additional limitations:
 - 1) Boarding shall not exceed 50% of the total square footage of the building.
 - 2) The use shall be strictly indoors with no outdoor runs or exercise pens.

- 3) The use shall only be located within designated commercial areas on the approved Concept Development Plan and the use shall not be located within 800 feet of a structure used for residential, transient housing, or hospitality use.
- (n) Multi-Family Residential uses in an existing building subject to the following standards:
- 1) The structure shall be a minimum of 50 years old.
 - 2) All alterations to existing historic structures, and all additional accessory structures, including signs, shall be designed and constructed in a manner that conforms to the United States Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, as determined by the Virginia Department of Historic Resources (VHDR).
 - 3) No proposed alteration to a structure or dependency containing an adaptive use shall materially alter the exterior appearance of the structure from its historical appearance, as determined by the Virginia Department of Historic Resources (VHDR).

4-606 Use Limitations

Unless otherwise specified in this Article or modified pursuant to Section 4-612 below, all uses shall conform to the general and specific use limitations and performance standards of Article 6 (Accessory Uses, Accessory Service Uses and Home Occupations); Article 7 (Off-Street Parking and Loading, Public and Private Streets); Article 8 (Signs); and Article 9 (Performance Standards) of this Ordinance. Specific use limitations relating to the PCID are:

- (a) Access. No individual lots shall have direct access to an arterial or major collector road except within the Vint Hill PCID, where existing buildings, streets or utility locations require flexibility. In such case, access to the higher standard road shall only be allowed where approved by VDOT, consistent with their access management standards and the overall road plan.
- (b) Utility Location. All utility distribution lines shall be placed underground.
- (c) Site Planning. Within any PCID district, the site plan shall provide for efficient groupings of structures, uses and facilities, convenient and safe pedestrian access and for smooth and convenient vehicular traffic flow within the district and at points of entry and exit.
- (d) The maximum land area used for retail uses shall not exceed 25 percent of the total permitted Floor Area Ratio (FAR) of the PCID.

4-607 Lot and Building Requirements

Except as specified below and in Section 4-606, Use Limitations, above and as may be modified pursuant to Section 4-612 below by the Board of Supervisors in approving the PCID, lot size, lot width, yards and setbacks, height limits, road frontage and access shall be the same as specified in this ordinance for the conventional district for the same use or the conventional use most approximating the PCID use, except for a

former Federal property where PCID design flexibility is needed to acknowledge existing site buildings, streets or utility system locations.

(a) Location Adjacent to Roads

No building, outdoor storage, areas for the collection of refuse, or loading areas shall be located any closer than 100 feet from the right-of-way of any arterial road, 75 feet from the right-of-way of a major collector and 35 feet from any private access easement or prescriptive easement.

(b) Location Adjacent to Agricultural and Residential Districts

No building, outdoor storage, areas for the collection of refuse or loading areas shall be permitted closer than 150 feet to any agricultural district, or to any existing or planned residential district, except for a former Federal property where PCID design flexibility is needed to acknowledge existing site buildings, streets or utility system locations.

Outdoor storage, areas for the collection of refuse and loading space located between buildings and such agricultural districts, or existing or planned residential districts where such uses are visible from the said agricultural or residential areas shall be effectively screened. To accomplish this screening a landscaping and screening plan must be submitted and approved as part of site plan review and approval.

(c) Building Height

The height of buildings shall not exceed two stories, except on former Federal properties, which can have a maximum of four stories.

4-608 Floor Area Ratio

The maximum floor area ratio permitted shall be a floor area ratio (FAR) of 25 percent of the gross area of the PCID, exclusive of floodplain.

4-609 Open Space, Landscaping and Buffering

(a) Open Space-General

The development plan for the PCID district shall provide for a minimum of 10% of the total site as open space. Open space shall not include vehicular areas such as streets, roads, travelways and parking lots. Open space may encompass public and private open space, buffer areas, utility easements, wetlands and floodplains. To ensure park-like character within such districts, and to minimize the impact upon agricultural and residential areas, open space and landscaping shall be located and organized in such a way as to maximize the visual effect of green spaces as seen from public ways and adjoining agricultural and residential areas. Commercial golf courses acreage can be counted as Open Space.

(b) Screening and Buffering

Landscaping, buffering and screening shall be used to screen outdoor storage, areas for collection of refuse, loading areas and parking from streets,

agricultural and residential uses. Where the PCID district is immediately adjacent to an existing or planned residential use, the development plan shall include a landscaping and buffering plan to minimize visual and noise impacts to residential uses from all uses on the PCID site.

4-610 Ownership, Operation and Maintenance of Common Open Space and Common Facilities

The approved Development Plan shall include provisions for the ownership, operation and management of all common open space, common private facilities, including private streets, parking, trails and pathways and lakes and commercial areas.

4-611 Architectural Controls and Design Standards

A PCID district is intended to be of a scale, size and location which encourages a harmonious environment and which embodies design features to maximize the park-like nature of the development and to minimize negative impacts on adjacent agricultural and residential properties. To this end, any application for rezoning to the PCID district shall include specific plans for architectural controls and design standards which shall be approved by the Board of Supervisors as part of the rezoning and shall govern the development and construction of improvements on the subject property. These plans shall specify how the controls and standards will be approved for individual projects, how they will be enforced and how and by whom they may be amended.

4-612 Modifications

In order to better accomplish the purposes of the PCID district as set forth in Section 4-601 the Board of Supervisors may, after review and recommendation by the Planning Commission, modify the regulations of this Ordinance and the Subdivision Ordinance upon a finding that the proposed modifications, although not literally in accord with applicable regulations, will satisfy public purposes of the ordinance and regulations to at least an equivalent degree. Modifications to regulations shall be requested and processed concurrent with the rezoning to the PCID district pursuant to provisions listed in Section 4-613 below and Section 13-200 of this Ordinance. However, no modifications shall be permitted which affect uses, use limitations as listed in Section 4-606 of this ordinance, floor area ratio of the PCID district, and requirements regulating setbacks from off-site roads and uses, except for a former Federal property where PCID design flexibility is needed to acknowledge existing site buildings, streets or utility system locations.

4-613 Rezoning to the Planned Commercial and Industrial Development District

Rezoning to the PCID district shall be established by amending the Zoning Map of Fauquier County. The procedures for such an amendment shall be generally as set forth in Section 13-200 of this Ordinance except as provided below. In the event of conflict between the provisions of Section 13-200, the provisions below shall prevail.

1) Pre-Application Conference

Applicants for rezoning to the PCID shall meet with Department of Community Development staff and other appropriate review agencies to review the proposed Development Plan prior to formal submittal. The purpose of such conferences shall be to assist in bringing the application and

material submitted therewith as nearly as possible into conformity with these or other regulations applying in the case. The conference shall also identify specific modifications to the regulations which may be requested pursuant to Section 4-612 above and which seem justified by alternative means to achieve the public purpose for such regulations to at least an equivalent degree. The timing and number of pre-application conferences shall be as mutually agreed to by the applicant and staff.

2) Development Plans - General

All rezoning to the PCID shall require a Development Plan approved by the Board of Supervisors. The approved Development Plan shall govern the development of the project and shall be binding on all current and future owners of the property. The Development Plan shall consist of a Concept Development Plan and other documents which may include, but not be limited to, proffer statements, dedications, contributions, and design standards

3) The Concept Development Plan

Applicant for rezoning to the PCID shall submit at time of application a proposed Concept Development Plan which shall include on one or more plats not exceeding 24 by 36 inches in size at a scale to be approved by the Director:

- a) The location and functional relationships of all land uses including the types, number of units and floor area ratio for each bay or mode of development.
- b) The location of roads, streets and travelways to provide vehicular traffic circulation, the proposed classification of streets and right-of-way requirements.
- c) The general location of proposed open space and the type of ownership proposed.
- d) The proposed phasing and sequence of the development plan for each phase and the projected start and completion dates, the density, and approximate type and number of structures, the percentage of each tract to be occupied by structures and the floor area ratio and general design standards for all uses.
- e) Topographic information with maximum contour intervals of five (5) feet at a scale to be approved by the Director, soils information to include a map identifying soil types at a scale to be approved by the Director, and the limits of floodplain, if any, on the site.
- f) The approximate limits of clearing and grading for each separate tract of development.
- g) A conceptual landscaping and buffering plan.

4) Additional Submission Materials

The following additional materials shall be submitted at the time of the application. These materials are to be used by staff, the Planning Commission

and the Board of Supervisors in reviewing and evaluating the application and may, along with the proposed Concept Development Plan and basic application materials required by Section 13-200 of this ordinance, form a basis for identification and mitigation of impacts of the proposed development and for making modifications to the proposal to allow it to better satisfy the purpose and intent of the PCID district and to meet all requirements of this ordinance. The required additional materials are:

- a) A statement which confirms the ownership or control of the property, the nature of the applicant's interest in the same, and the place of record of the latest instrument in the chain of title for each parcel constituting the subject property.
- b) Request for any modifications pursuant to Section 4-612 above. Such requests shall be specific as to all modifications that are being requested, why they are needed or desired and shall provide detailed justification as to how, if approved, the modifications will serve public purposes to at least an equivalent degree as the ordinances being modified.
- c) A traffic study to cover on-site traffic generation and distribution and off-site impacts. This traffic study must be acceptable to the Director as to content and technical form before the application is deemed to be complete.
- d) A statement indicating the extent, approximate timing and estimated costs of proposed off-site infrastructure improvements such as roads, water, sanitary sewer and stormwater management facilities necessary to construct the development. This statement should identify those facilities to be constructed by the applicant and explain how those to be constructed by others will be provided.
- e) A draft Proffer Statement to address mitigation of impacts, including but not limited to, transportation impacts, impacts on public facilities such as schools.

4-614

General Standards for Approval of a Rezoning to the Planned Commercial Industrial Development District

In addition to the specific requirements of this section and the standards for rezoning for all development contained in Section 13-200, the Planning Commission in its review and recommendation and the Board in its approval shall find that the following general standards relating to planned development have been satisfied:

- 1) The development is in substantial conformance to the adopted Comprehensive Plan with respect to type, character and intensity of use and public facilities.
- 2) The design of the development is of such that it achieves the adopted goals of the Comprehensive Plan and the stated purposes of the PCID Ordinance.
- 3) The development efficiently utilizes the available land and protects and preserves to the extent possible all scenic assets and natural features such as trees, streams and topographic features.

- 4) The development is designed to prevent substantial injury to the use and value of existing surrounding development, and shall not hinder, deter or impede development of surrounding properties in accordance with the adopted Comprehensive Plan.
- 5) The development shall be located in an area in which transportation, police and fire protection, other public facilities and utilities, including water and sewer, are or will be available and adequate for the uses proposed; provided, however, that the applicant shall make provision for such facilities or utilities which are not presently available.

4-615 Validity of the Approved Development Plan

The approved Development Plan shall specify the period of time for which the Plan shall remain valid and what actions must be performed and in what manner in order to continue or extend the period of validity. Upon expiration of any plan no

development may occur until the plan is reapproved by the Board of Supervisors in accordance with the provisions of Section 4-605 and Article V.

4-616 Deviations from and Modifications to the Approved Concept Plan

Development of the PCID district shall be in substantial conformance with the Concept Development Plan. Minor deviations from the approved Concept Plan may be permitted when the Director determines that such are necessary due to the requirements of topography, drainage, structural safety or vehicular circulation and such deviations will not materially alter the character of the approved Development Plan including the proposed development phasing and does not violate other binding components of the Plan including approved Proffers. In no case shall deviations include changes to the general location and types of land uses; or an increase of greater than 5% in overall floor area; or decreases in total area for open space. Changes not in conformance with this section or not deemed minor deviations shall require a special exception in conformance with Section 4-605 and Article V, provided however changes to any approved proffers shall be made in conformance with Section 13-200.

PART 7 4-700 PLANNED DEVELOPMENT MIXED USE DISTRICT (PDMU)

4-701 Purpose and Intent

The PDMU District is established to provide a limited range of commercial retail, service and office uses, as well as civic and residential uses. The district regulations are designed to allow the types of commercial uses that are compatible with public uses such as schools and which serve only the immediate neighborhood. In general, uses within this district should preserve the neighborhood feeling of the community and should not degrade the existing quality of life. Included within these proposed uses would be limited shopping center uses.

Planned Development Mixed Use Districts shall be planned and developed as a single entity, subject to an approved development plan. PDMU Districts shall be located within Service Districts and in locations designated for such use in the Comprehensive Plan. It is intended that these regulations provide flexibility in internal relationships and design elements. The PDMU provides a single zoning district which promotes an

integrated business community within which business and residences are conveniently linked.

In general, the PDMU District is planned for mixed commercial/office/civic/residential uses which serve as a transitional district between more intensive commercial uses and low density residential uses.

4-702 Size and Location

The minimum area required for the establishment of a PDMU district shall be 25 acres. Additional acres may be added to an established PDMU if they adjoin and form a logical addition to the approved development of an established PDMU. The procedure for an addition shall be same as if an original application were filed and all requirements shall apply except the minimum acreage requirement above. The minimum acreage for such additions shall be five (5) acres.

The PDMU shall be located within an area of a Service District which has sufficient infrastructure to support the proposed development, including roads, public facilities and utilities, or where sufficient infrastructure is planned and expected to be in place. In cases where necessary infrastructure is not yet available, the applicant for a PDMU shall make provisions for the necessary infrastructure in the development plan.

4-703 Principal Uses Permitted

The following principal uses shall be permitted, subject to designations of areas and sites for such uses in the approved development plan and subject to the use limitations set forth in Section 4-707 below:

- Single Family Dwellings
- Duplex Dwellings
- Eating Establishment (Excluding Fast Food)
- Farmer's Market
- Florist
- Retail Sales Establishment (less than 5,000 sq. ft.)
- Greenhouse/Plant Nursery
- Photographic Studio
- Barber/Beauty Salon
- Dance/Music Studio
- Daycare Center
- Financial Institutions
- Dry Cleaners (drop-off only)
- Repair Service Establishment
- Health Club/Spa
- Library
- Office, Business
- Office, Professional
- Public Safety Facility
- Recreation Facility (athletic and non-athletic)
- School, Preschool
- School, Primary
- School, Secondary/Advanced
- School, Technical (indoor)
- Swimming/Tennis Facility

4-704 **Secondary Uses Permitted**

The following secondary uses shall be permitted only in the PDMU which contains one or more principal use; such secondary uses shall be supportive and complementary to (i.e. which serves the users of) existing permitted principal uses. Areas and sites for such uses shall be shown in the approved Development Plan and subject to the use limitations set forth in Section 4-707 below.

Parks, playgrounds, community centers and non-commercial recreational and cultural facilities which are not commercial, public or quasi-public.

Electric, gas, water, sewer and tower facilities, including transformers, pipes, meters, pump stations and related facilities for distribution of local services.

Temporary buildings, the uses of which are incidental to construction operations during development being conducted on the same or adjoining tract or section and which shall be removed upon completion or abandonment of such construction.

Mobile Eating Establishments subject to the Standards found in Section 5-807 of the Zoning Ordinance. Mobile Eating Establishments shall not be located within residential neighborhoods.

4-705 **Special Permit Uses**

Place of Worship
Post Office
Eating Establishment, Fast Food
Museum

4-706 **Special Exception Uses**

Civic/Government Center (excluding detention facilities) Retail Sales Establishment and Shopping Center, 5,000 sq. ft. or greater, but less than 75,000 sq. ft.

Museum
Conference Center
Spectator/Non-Spectator Field Events (Class C)
Continuing Care Facility

4-707 **Use Limitations**

Unless otherwise specified in this Article or modified pursuant to Section 4-713 below, all uses shall conform to the general and specific use limitations and performance standards of Article 6 (Accessory Uses, Accessory Service Uses and Home Occupations); Article 7 (Off-Street Parking and Loading, Public and Private Streets); Article 8 (Signs); and Article 9 (Performance Standards) of this Ordinance. Specific use limitations relating to the PDMU are:

- a. Access. No individual lots shall have direct access to an arterial or major collector road.
- b. Utility Location. All utility distribution lines shall be placed underground.

- c. Site Planning. Within any PDMU district, the site plan shall provide for efficient groupings of structures, uses and facilities, convenient and safe pedestrian access and for smooth and convenient vehicular traffic flow within the district and at points of entry and exit.
- d. The maximum land area used for retail uses shall not exceed 25 percent of the total permitted Floor Area Ratio (FAR) of the PDMU.

4-708 Lot and Building Requirements

Except as specified below and in Section 4-707, Use Limitations, above and as may be modified pursuant to Section 4-612 below by the Board of Supervisors in approving the PDMU, lot size, lot width, yards and setbacks, height limits, road frontage and access shall be the same as specified in this ordinance for the conventional district for the same use or the conventional use most approximating the Planned Development Mixed Use Zone.

1. Location Adjacent to Roads

No building, outdoor storage, areas for the collection of refuse, or loading areas shall be located any closer than 100 feet from the right-of-way of any arterial road, 75 feet from the right-of-way of a major collector and 35 feet from any private access easement or prescriptive easement.

2. Location Adjacent to Agricultural and Residential Districts

No building, outdoor storage, areas for the collection of refuse or loading areas shall be permitted closer than 150 feet to any agricultural district, or to any existing or planned residential district.

Outdoor storage, areas for the collection of refuse and loading space located between buildings and such agricultural districts, or existing or planned residential districts where such uses are visible from the said agricultural or residential areas shall be effectively screened. To accomplish this screening a landscaping and screening plan must be submitted and approved as part of site plan review and approval.

3. Building Height

The height of buildings shall not exceed two stories or thirty-five (35) feet.

4. Residential Density, 1-3 DU/acre

4-709 Floor Area Ratio

The maximum floor area ratio permitted shall be a floor area ratio (FAR) of 25 percent of the gross area of the PDMU exclusive of floodplain.

4-710 Residential/Commercial Ratio

Residential acreage must equal sixty percent (60%) of the total acreage.

4-711

Open Space, Landscaping and Buffering

1. Open Space General

The development plan for the PDMU District shall provide for a minimum of 20% of the total site as open space. Open space shall not include vehicular areas such as streets, roads, travelways and parking lots. Open space may encompass public and private open space, buffer areas, utility easements, wetlands and floodplains. To ensure park-like character within such districts, and to minimize the impact upon adjoining agricultural and residential areas, open space and landscaping shall be located and organized in such a way as to maximize the visual effect of green spaces as seen from public ways and adjoining agricultural and residential areas.

2. Screening and Buffering

Landscaping, buffering and screening shall be used to screen outdoor storage, areas for collection of refuse, loading areas and parking from streets, agricultural and residential uses. Where the PDMU district is immediately adjacent to an existing or planned residential use, the development plan shall include a landscaping and buffering plan to minimize visual and noise impacts to residential uses from all uses on the PDMU site.

4-712

Ownership, Operation and Maintenance of Common Open space and Common Facilities

The approved Development Plan shall include provisions for the ownership, operation and management of all common open space, common private facilities, including private streets, parking, trails and pathways and lakes and commercial areas.

4-713

Architectural Controls and Design Standards

A PDMU district is intended to be of a scale, size and location which encourages a harmonious environment and which embodies design features to maximize the park-like nature of the development and to minimize negative impacts on adjacent residential properties. To this end, any application for rezoning to the PDMU district shall include specific plans for architectural controls and design standards which shall be approved by the Board of Supervisors as part of the rezoning and shall govern the development and construction of improvements on the subject property. These plans shall specify how the controls and standards will be approved for individual projects, how they will be enforced and how and by whom they may be amended. In addition, proposed PDMU's should adhere to neo-traditional design standards which use the following design elements:

1. neighborhoods that are limited in size and oriented toward pedestrian activity;
2. a variety of housing types, jobs, shopping, services, and public facilities;
3. residences, shops, workplaces, and civic buildings interwoven within the neighborhood, all within close proximity;
4. a network of interconnecting streets and blocks that maintains respect for the natural landscape;

5. natural features and undisturbed areas that are incorporated into the open space for the neighborhood;
6. a coordinated transportation system with a hierarchy of approximately designed facilities for pedestrians, bicycles, public transit, and automotive vehicles;
7. well-configured squares, plazas, greens, landscaped streets, preserves, greenbelts, and parks woven into the pattern of the neighborhood and dedicated to the collective social activity, recreation, and visual enjoyment of the populace;
8. civic buildings, open spaces, and other visual features that act as landmarks, symbols, and focal points for community identity;
9. compatibility of buildings and other improvements as determined by their arrangement, bulk, form, character, and landscaping to establish a livable, harmonious, and diverse environment;
10. private buildings that form a consistent, distinct edge and define the border between the public street space and the private block interior; and
11. architecture and landscape that respond to the unique character of the county.

4-714

Modifications

In order to better accomplish the purposes of the PDMU district as set forth in Section 4-700 the Board of Supervisors may, after review and recommendation by the Planning Commission, modify the regulations of this Ordinance and the Subdivision Ordinance upon a finding that the proposed modifications, although not literally in accord with applicable regulations, will satisfy public purposes of the ordinance and regulations to at least an equivalent degree. Modifications to regulations shall be requested and processed concurrent with the rezoning to the PDMU district pursuant to provisions listed in Section 4-715 below and Section 13-200 of this Ordinance. However, no modifications shall be permitted which affect uses, use limitations as listed in Section 4-707 of this ordinance, floor area ratio of the PDMU district, and requirements regulating setbacks from off-site roads and uses.

4-715

Rezoning to the Planned Development Mixed Use District

Rezoning to the PDMU district shall be established by amending the Zoning Map of Fauquier County. The procedures for such an amendment shall be generally as set forth in Section 13-200 of this Ordinance except as provided below. In the event of conflict between the provisions of Section 13-200, the provisions below shall prevail.

1. (Deleted)
2. Development Plans - General

All rezonings to the PDMU shall require a development plan approved by the Board of Supervisors. The approved development plan shall govern the development of the project and shall be binding on all current and future owners of the property. The development plan shall consist of a concept

development plan and other documents which may include, but not be limited to, proffer statements, dedications, contributions, and design standards.

3. The Concept Development Plan

Applicants for rezonings to the PDMU shall submit at time of application a proposed concept development plan which shall include on one or more plats not exceeding 24 by 36 inches in size at a scale to be approved by the Director.

- a. The location and functional relationships of all land uses including the types, number of units and floor area ratio for each bay or mode of development.
- b. The location of roads, streets and travelways to provide vehicular traffic circulation, the proposed classification of streets and right-of-way requirements.
- c. The general location of proposed open space and the type of ownership proposed.
- d. The proposed phasing and sequence of the development plan for each phase and the projected start and completion dates, the density, and approximate type and number of structures, the percentage of each tract to be occupied by structures and the floor area ratio and general design standards for all uses.
- e. Topographic information with maximum contour intervals of five (5) feet at a scale to be approved by the Director, soils information to include a map identifying soil types at a scale to be approved by the Director, and the limits of floodplain, if any, on the site.
- f. The approximate limits of clearing and grading for each separate tract of development.
- g. A conceptual landscaping and buffering plan.

4. Additional Submission Materials

The following additional materials shall be submitted at the time of the application. These materials are to be used by staff, the Planning Commission and the Board of Supervisors in reviewing and evaluating the application and may, along with the proposed concept development plan and basic application materials required by Section 13-200 of this ordinance, form a basis for identification and mitigation of impacts of the proposed development and for making modifications to the proposal to allow it to better satisfy the purpose and intent of the PDMU district and to meet all requirements of this ordinance. The required additional materials are:

- a. A statement which confirms the ownership or control of the property, the nature of the applicant's interest in the same, and the place of record of the latest instrument in the chain of title for each parcel constituting the subject property.

- b. Request for any modifications pursuant to Section 4-714 above. Such requests shall be specific as to all modifications that are being requested, why they are needed or desired and shall provide detailed justification as to how, if approved, the modifications will serve public purposes to at least an equivalent degree as the ordinances being modified.
- c. A traffic study to cover on-site traffic generation and distribution and off-site impacts. This traffic study must be acceptable to the Director as to content and technical form before the application is deemed to be complete.
- d. A statement indicating the extent, approximate timing and estimated costs of proposed off-site infrastructure improvements such as roads, water, sanitary sewer and stormwater management facilities necessary to construct the development. This statement should identify those facilities to be constructed by the applicant and explain how those to be constructed by other will be provided.
- e. A draft proffer statement to address mitigation of impacts, including but not limited to, transportation impacts, impacts on public facilities such as schools.

4-716

General Standards for Approval of a Rezoning to the Planned Development Mixed Use District

In addition to the specific requirements of this section and the standards for rezoning for all development contained in Section 13-200, the Planning Commission in its review and recommendation and the Board in its approval shall find that the following general standards relating to planned developments have been satisfied:

- 1. The development is in substantial conformance to the adopted Comprehensive Plan with respect to type, character and intensity of use and public facilities.
- 2. The design of the development is of such that it achieve the adopted goals of the Comprehensive Plan and the stated purposes of the PDMU Ordinance.
- 3. The development efficiently utilizes the available land and protects and preserves to the extent possible all scenic assets and natural features such as trees, streams and topographic features.
- 4. The development is designed to prevent substantial injury to the use and value of existing surrounding development, and shall not hinder, deter or impede development of surrounding properties in accordance with the adopted Comprehensive Plan.
- 5. The development shall be located in an area in which transportation, police and fire protection, other public facilities and utilities, including water and sewer, are or will be available and adequate for the uses proposed; provided, however, that the applicant shall make provision for such facilities or utilities which are not presently available.

4-717 Validity of the Approved Development Plan

The approved development plan shall specify the period of time for which the Plan shall remain valid and what actions must be performed and in what manner in order to continue or extend the period of validity. Upon expiration of any plan no development may occur until the plan is reapproved by the Board of Supervisors in accordance with the provisions of Section 13-200 and Article V.

4-718 Deviations from the Modifications to the Approved Concept Plan

Development of the PDMU district shall be in substantial conformance with the concept development plan. Minor deviations from the approved concept plan may be permitted when the Director determines that such are necessary due to the requirements of topography, drainage, structural safety or vehicular circulations and such deviations will not materially alter the character of the approved development plan including the proposed development phasing and does not violate other binding components of the plan including approved proffers. In no case shall deviations include changes to the general location and types of land uses; or an increase of greater than 5% in overall floor area; or decreases in total area for open space. Changes not in conformance with this section or not deemed minor deviations shall require a special exception in conformance with Section 4-714 and Article V, provided however changes to any approved proffers shall be made in conformance with Section 13-200.

PART 8 4-800 CONSERVATION EASEMENT INCENTIVE OVERLAY DISTRICT (CEI)

4-801 Purpose and Intent

The Conservation Easement Incentive Overlay District (CEI) is established in order to preserve agricultural resources, historic resources, open space and parks, and opportunities for future transportation improvements. More specifically, the objectives of the District are to further the County's Comprehensive Plan by:

1. Preserving agricultural uses outside of the Service Districts;
2. Establishing a hard open space edge around the perimeter of Service Districts;
3. Establishing parks and open space;
4. Preserving valued historic resources; and
5. Protecting future transportation corridors from encroaching development.

This provision provides an incentive for residentially zoned properties within designated Service Districts to contribute to the above objectives through the purchase of conservation easements. Residential projects within the Service Districts may apply for a special exception for additional density in exchange for contributing to the above objectives through the purchase of conservation easements, subject to the standards and procedures set forth in these provisions.

4-802 Establishment of the Overlay District Boundaries

The Conservation Easement Incentive District is hereby established as an overlay district in all Service Districts except the Village service districts of Calverton, Catlett, and Midland. The boundaries of the overlay district shall be adjusted to conform to any amendments to Service District boundaries approved by the Board of Supervisors through the Comprehensive Plan process.

Qualifying Purchase of Development

1. Location -- Residential development rights must be acquired from properties in the RA, RC, R-1, R-2, RR-2, V, or R-4 zoning district located within the Service District, or contiguous to the Service District boundaries wherein the project seeking the density bonus is located. Conservation easements on properties, any part of which is located up to 5,000 feet from the Service District boundaries, may be considered upon a finding by the Board of Supervisors that the unique nature of the property on which conservation easements are being purchased contributes to the stated objectives because of environmental or agricultural value, view sheds, historic value or some combination of these factors.
2. The easement and a deed restriction limiting the potential remaining developmental density, if any, allowed on the property shall be in a form acceptable to the Board.
3. Incentive Items – The purchase of conservation easements must achieve one or more of the following objectives.
 - A. Agricultural and Environmental Preservation – The purchase of conservation easements results in the recordation of a non-common open space easement pursuant to Section 2-700 on an RA or RC zoned property at least 30 acres in size, which is designated in the Comprehensive Plan for rural use.
 - B. Open Space and Park Land – The purchase of conservation easements results in the dedication of open space to the County or the recordation of open space easements resulting in the implementation of open space and linear park system elements adopted as part of the Comprehensive Plan. The open space provided must be in addition to the minimum amount required by the underlying district for the proposed residential development in the Service District, and the open space must be publicly accessible for open space and recreation purposes.
 - C. Historic Resources – The purchase of conservation easements contributes to the preservation and protection of Fauquier County historical sites, as designated in the Comprehensive Plan, through the removal of all development rights on the parcel or parcels where historic resources are located.
 - D. Transportation Corridors – The purchase of conservation easements removes development potential from affected parcels within a transportation corridor identified on the County’s adopted Comprehensive Plan or must be part of the Board of Supervisors 6-Year Transportation Improvements program. Such transportation improvements must be in addition to any transportation improvements in the project’s specific neighborhood which are required to support the proposed development.

Calculation of Maximum Density Bonus

1. No more than one additional unit shall be allowed within a project in the

qualifying Service District for each qualifying development right extinguished through the purchase of conservation easements. The number of extinguished development rights shall be calculated by the Board based on:

- A. the provisions of Section 2-308.2 and 2-308.3 for the RA and RC rural zoning districts; and
 - B. the provisions of Section 3-401 and 2-308.4 for R-1, R-2, RR-2, V, and R-4 zoned properties.
2. The total increase in units authorized under this provision for any project shall not exceed 30 percent of those allowed by the underlying zoning.
 3. The total density in any project, including the bonus density available under this provision, shall not exceed the density set forth in the Comprehensive Plan for that location.
 4. The resulting subdivision shall be clustered in accordance with the provisions of Section 2-406 of the Zoning Ordinance, except that the Board of Supervisors may reduce the open space required in the Zoning Ordinance to accommodate the additional density. The open space reduction results from subtracting the cumulative acreage resulting from the added units, based on their designated minimum lot size established for the respective and receiving zoning district classification, along with the associated public street extension or additions. The open space shall not be reduced below that depicted in Section 2-406.2 (R-1: 25%, R-2: 20%, R-3 and R-4: 15%).
 5. Not all extinguished development rights need be used at once. A developer may bank them and use them within ten years for another qualifying project or projects or sell them to a third party who may use them for another qualifying project or projects within the same ten year period.

4-805

Procedures

1. No increase in density pursuant to this provision shall be established and no preliminary plat shall be approved reflecting such increase in density unless and until a special exception is approved by the Board of Supervisors granting such increase in density pursuant to the requirements of this provision.
2. The special exception application shall be filed pursuant to the procedures set forth in Section 5-009 and the requirements set forth in Section 5-011 of the Zoning Ordinance. In addition to the factors set forth in the above-referenced sections, the Board shall consider the relationship between the land proposed for the conservation easement and the land proposed for the density bonus and how the proposed easement and development affects the public health, safety, convenience and welfare of Fauquier County citizens including the goals that residential areas be provided with healthy surroundings for family life, that agricultural and forestal land be preserved, that the growth of the community be consonant with the efficient and economical use of public funds, and that good zoning practices be followed.
3. No final construction plans, final plat, infrastructure plan, utility plan, grading permit or building permit shall be approved for any project wherein a special exception has been granted for an increase in density pursuant to this provision

until such time as recorded easements are in place extinguishing development rights on all properties contributing to the density bonus.

4-806 Standards for Approval of Special Exception

The proposed project shall conform with all applicable general standards set forth for all special exceptions in Section 5-006 of the Zoning Ordinance. In addition, the following standards must be met in order for the Board to approve a special exception for a density increase under this provision.

1. Each of the extinguished development rights proposed in exchange for the density increase shall qualify pursuant to the standards set forth in Section 4-803, above.
2. The proposed project complies with all other requirements of the Zoning Ordinance, with no reduction sought by special exception for open space within the project except as provided in Section 4-804(4).
3. The overall project density is consistent with the Comprehensive Plan and compatible with adjoining neighborhoods.
4. The road and street systems are adequate to support the increased density, or appropriate road improvements are proposed and funded by the applicant as part of the development application.

**PART 9 4-900 MIXED USE SPECIAL DISTRICT – BEALETON SERVICE DISTRICT
(MU-BEALETON)**

4-901 Purpose and Intent

The Mixed Use Special District is hereby established for the Bealeton Service District to provide for mixed use development when consistent with the Comprehensive Plan and the county-wide land use vision of undeveloped rural countryside interrupted by more densely developed and populated traditional towns. The District envisions development occurring as a series of connected neighborhoods, each with its own focus and comprised of a mix of commercial, residential, civic, and open space uses and organized to create development in a compact form that functions as a discernable center for employment, retail, service, entertainment, cultural and civic activities in a traditional neighborhood design that would:

- Include residential, commercial and civic buildings in a walkable community;
- Be gathering places for social interaction and special events, such as parades, markets, street festivals;
- Be pedestrian oriented, with buildings, spaces, heights, lighting, signage and walking distances of a human scale;
- Include parks and open space as an integral part of development and sited at key locations;
- Include rehabilitation and use of historic buildings, incorporate and create buildings with historical or architectural features referencing an inventory of existing architectural styles consistent with the community;
- Incorporate significant environmental features into the design and protect and accentuate natural features and resources such as topography, floodplains, wetlands, and habitat corridors.

- Incorporate energy efficiencies.

Three sub-districts are authorized:

1. Mixed Use – Core. This sub-district is intended for areas designed to function as a center and major focal point for a service district, as specifically designated in the Comprehensive Plan. A core is a neighborhood or series of neighborhoods focused around a concentration of active store-front style commercial uses to include retail, restaurants and services as well as a broad range of office and employment uses, and would function as the gathering place for the community, including the opportunity for outdoor events. Multi-family and attached housing types are included to help create a vibrant round-the-clock center and to provide a variety of housing needs.
2. Mixed Use – General. This sub-district is intended for areas designated in the Comprehensive Plan for a mix of office, retail and other commercial and/or residential uses. The sub-district also provides for a mix of uses, but is not intended to serve as the major focus for retail and related services within the Service District. The specific character and types of uses allowed in the Mixed-Use General sub-district must be consistent with that set forth in the Comprehensive Plan for that particular area, with residential uses allowed only to the extent the Comprehensive Plan envisioned residential uses within the area. It is intended that the pedestrian-oriented character of Core areas be extended into the Mixed Use General Sub-district to create cohesive pedestrian-oriented neighborhoods.
3. Mixed Use - Residential. This sub-district is intended for areas within the Service Districts designated for residential development in the Comprehensive Plan. This sub-district is designed to create pedestrian oriented residential neighborhoods of traditional design focused on civic or open spaces and physically integrated with adjoining or adjacent mixed use development.

The number and combination of sub-districts utilized in a particular project is anticipated to vary depending on the size and location of the project relative to the goals of the Comprehensive Plan. While it is desirable that areas designated for mixed use in the County's Comprehensive Plan be developed in an overall coordinated fashion, it is recognized that smaller areas of a Service District may develop individually at different times in response to market conditions and owner needs. Therefore, these regulations are intended to permit significant flexibility from project to project within the specific requirements set forth herein, allowing the applicant and the County to consider the broader contribution to mixed use development existing and anticipated throughout a Service District. The specific parameters for a particular development shall be set forth in a Code of Development for the project, consistent with Section 4-923, to be approved in conjunction with the rezoning.

4-902

Location of District

The MU District shall only be authorized within portions of the Service Districts designated for sewer capacity in the Comprehensive Plan, with the following limitations on sub-districts:

1. Mixed Use - Core: Shall only be authorized in areas designated to be a focal point of development and activity for the broader Service District.

2. Mixed Use - General: Shall only be authorized in areas designated to be developed in a mix of uses in the Comprehensive Plan.
3. Mixed Use – Residential: Shall only be authorized for areas designated for residential development in the Comprehensive Plan.

4-903

Size of District

No minimum acreage requirement is established. In order to be walkable, a MU-Core sub-district should concentrate retail and other active uses within roughly one-quarter mile neighborhoods, with larger cores designed to be a physically and functionally connected cluster of such neighborhoods. A MU-General sub-district should create its own focal point for the sub-district by concentrating any active commercial uses within a walkable distance.

4-904

Uses

The table below lists potential uses allowed within the MU district, by sub-district. The Code of Development approved in conjunction with a MU rezoning (see Section 4-923) shall further define and limit the particular uses for any proposed development. In no case shall a Code of Development for a project authorize any uses which are in conflict with the specific Comprehensive Plan provisions for a Service District.

Permitted uses (P) are allowed by-right within the MU district unless specifically excluded by the approved Code of Development for the project.

Special Permit (SP) and Special Exception (SE) uses must be identified in the rezoning as potential future uses, but may only be approved separately by SP and SE once the MU zoning is approved.

Use Category	Use	MU - Core	MU - General	MU - Residential
Residential	Household Living			
	Single Family Detached		P	P
	Duplex		P	SE
	Triplex	SE	P	SE
	Quadriplex	SE	P	SE
	Townhouse	SE	P	SE
	Live-Work Townhouse	P	P	SE
	Multi-Family	P	SE	SE
	Group Living			
	Assisted Living, Nursing Home, up to 25 beds	P	P	SE
	Assisted Living, Nursing Home, over 25 beds	SE	SE	
Transitional Family Housing	SE	SE		
Temporary Housing	B&B, Inn 1 to 12 rooms	P	P	SP
	Hotel, B&B, Etc. 13-100 rooms	SE	SE	
	Hotel, B&B, Etc. over 100 rooms	SE	SE	
Public, Civic and Institutional Uses	Place of Worship	P	P	SP
	Community Centers, Meeting Rooms	P	P	SP
	Day Care, child or elder	P	P	SP
	Schools, including pre-, primary, middle, and high schools, public or private	SE	SE	SE
	College, University	P	P	
	Medical Care Facilities, Hospital	SE	SE	
	Government Offices, including Post Office	P	P	SE
	Museums and similar cultural buildings	P	P	SE

	Public Safety Facilities	P	P	SE
	Public Parks & Recreation Facilities	P	P	P
	Recycling Containers, Governmental	SP	SP	
Active Commercial Uses	Commercial Retail, including grocery; Restaurants; Personal Services; Banks; Gyms and Health Clubs; Business Services; Artist & Artisan shops with Gallery/Sales; and Commercial Recreation, including Theaters			
	Establishment/building up to 5,000 sq. ft.	P	P	P
	Establishment/building 5,001 to 20,000 sq. ft.	P	P	
	Establishment/building 20,001 to 50,000 sq. ft.	SE	SE	
	Establishment/building over 50,000 sq. ft.	SE	SE	
	Drive-Through Facility	SE	SE	
	Events	SP	SP	
Other Commercial Uses	Office Uses, including Medical and Financial Offices; Laboratories, Light Manufacturing, Assembly, Research & Development within Closed Buildings; Artist & Artisan workshops without Sales; Technical Schools.			
	Establishment/building up to 20,000 sq. ft.	P	P	SE
	Establishment/building 20,001 to 50,000 sq. ft.	SE	SE	
	Establishment/building over 50,000 sq. ft.	SE	SE	
	Drive-Through Facility	SP	SE	
	Outdoor Storage	SE	SE	
	Car Wash; Gasoline Station; Repair Garage	SE	SE	
Mobile Eating Establishment	P/A	P/A		
Utilities	Public and Private Utilities, Including Water, Sewer, and Telecommunications Towers	SE	SE	SE

Notwithstanding the limitations of Section 2-302.1 of this Ordinance, the Zoning Administrator shall have the authority to determine that a use not listed above is sufficiently similar in character and impact to a use listed above and therefore allowed subject to the same limitations for the similar use.

4-905

Accessory Uses

The provisions of Articles 5 and 6, to include all Home Occupation provisions, shall govern accessory uses within the MU district except where any specific provision of Article 5 and 6 conflicts with a specific requirement of the MU District, the MU District requirement shall govern.

1. The family dwelling and efficiency apartments authorized in Article 5 and 6 shall not be allowed within the MU district; however, any single family dwelling may have an accessory dwelling unit with approval of an administrative permit showing compliance with the following standards:
 - A. Maximum unit size is 800 square feet.
 - B. Such unit may be located within the principal dwelling or may be incorporated into an accessory structure such as a garage.
 - C. The unit shall be designed in an integrated fashion with the principal dwelling and/or its accessory structure so that its presence is not visually obtrusive.
 - D. No additional parking is required.

Mix of Uses Required

1. The following guidelines shall apply to Sub-districts, with the percentages based on the proportion of gross floor area:
 - A. Mixed Use – Core:
Active Commercial Uses: At least 75% of the ground floor space located along the key commercial pedestrian streets, as identified in the General Development Plan shall be Active Commercial Uses, as set forth in 4-904.
Residential: At least 35% of the total space, and no more than 20% of ground floor space. Public, Civic, Institutional: At least 5% of total floor space.
 - B. Mixed Use – General:
Other Commercial Uses: At least 50% of all floor space.
Residential: No more than 50% of the total square footage in the General sub-district shall be residential.
Public, Civic, Institutional: At least 5% of total floor space.
 - C. Mixed Use – Residential:
Residential: Multiple residential types required.
Public, Civic, Institutional: At least 5% of total floor space.
2. The Board of Supervisors may modify the requirements of 1 above where such a waiver would not (a) compromise the traditional town vision embraced by this ordinance or (b) conflict with the adopted Comprehensive Plan for the area and where at least one of the following criteria is met:
 - A. the required mix of uses is not physically achievable on an individual site because of the size or other physical characteristics of the site;
 - B. the broader mix of uses in the immediate area compensates for providing the mix within a particular project; or
 - C. the County’s Comprehensive Plan specifically envisions a different mix of uses.

Use Limitations

1. Unless otherwise specified under the provisions for the MU District, all uses shall conform to the general and specific use limitations and performance standards of Article 2 (General Requirements), Article 5 (Administrative Permits, Special Permits, Special Exceptions), Article 7 (Off-Street Parking and Loading, Public and Private Streets, Water and Sewer, Tree Canopy, Landscape and Buffer Requirements), Article 8 (Signs), Article 9 (Performance Standards), Article 10 (Non-conformities); Article 11 (Telecommunications Ordinance).
2. All uses shall require site plan approval pursuant to the provisions of Article 12.
3. All uses in the MU-Core sub-district must be conducted within completely enclosed buildings unless otherwise expressly authorized in the rezoning approval. This requirement does not apply to off-street parking or loading areas, automated teller machines, drive-throughs, outdoor seating areas, utilities, events, or accessory and temporary retail displays and sales, such as sidewalk sales, street vendors, temporary markets, etc.

4. No individual lots or uses shall have driveway access to an arterial or major collector road.
5. All new and existing utility lines shall be placed underground, provided that undergrounding of existing utilities may be waived by the Board as part of the concept plan on a case-by-case basis to address hardship.

4-908

Residential Density

1. In addition to the limits created by the Mix of Use limitations in Section 4-906 and all other standards of this ordinance, residential densities shall be consistent with any specific limitations set forth in the County's Comprehensive Plan and with the following additional limitations:
 - A. Mixed Use – Core: No limit on the number of units that may be requested as Live/Work units or in buildings with ground floor commercial. Other types of residential units are achievable utilizing the density provisions set forth in paragraph 2, below.
 - B. Mixed Use – General: No limit on the number of units that may be requested as Live/Work units or in buildings with ground floor commercial. Other types of residential units are achievable utilizing the density provisions set forth in paragraph 2, below.
 - C. Mixed Use – Residential: Maximum starting density for residential units is the bottom of the range specified in the Comprehensive Plan for the area, with additional density achievable through use of the bonus provisions set forth in paragraph 2, below.
2. Increases in residential densities as referenced above are encouraged in order to help focus residential growth in the Service Districts. Such density increases shall be allowed consistent with the policies set forth in the Comprehensive Plan as approved by the Board in exchange for Transfer of Development Rights, affordable housing, and traditional neighborhood design. Density increases awarded through Transfer of Development Rights shall be allowed only to the extent an equal amount thereof are retired from an area within five miles of the Bealeton Service District, and such Transfer of Development Rights shall be accomplished by acquiring and proffering easements on qualifying land or through other mechanisms acceptable to the Board of Supervisors and permitted under the laws of the Commonwealth of Virginia.
3. Accessory dwellings authorized pursuant to the provisions of Section 4-905 shall not be counted toward residential density.

4-909

Lot Requirements

1. Lot Size: To be determined by approval of a Code of Development.
2. Lot Width: To be determined by approval of a Code of Development.
3. Frontage: To be determined by approval of a Code of Development.
4. Front Setbacks: Buildings must abut front property lines except:

- A. A portion of the building may be set back further to provide an articulated façade, to accommodate a building entrance feature, to accommodate additional landscaping or other streetscape elements, or to create wider sidewalks or an outdoor seating area.
 - B. Single Family Residential units may be set back 10-20 feet from the property line.
 - C. More substantial setbacks may be required along arterials or other major streets where the goal of the County is to screen development.
 - D. These setbacks may be modified or additional setbacks may be imposed by the Board in approving a MU General Development Plan.
5. Side and Rear Setbacks. No minimum side or rear setbacks are required in the MU district except:
- A. Where a MU lot abuts a residential or rural zoning district, a setback requirement of the abutting district shall be provided, or 10 feet, whichever is greater;
 - B. Single family detached lots shall provide a minimum 5' side and rear setbacks;
 - C. Duplex and townhouse lots shall provide a minimum 5' side setback on end units and a minimum 5' rear setback on all units;
 - D. These setbacks may be modified or additional setbacks may be imposed by the Board in approving a MU General Development Plan.
6. A variety of lot sizes, widths and spacing between units shall be provided within blocks along individual streets; mechanisms for assuring this variety shall be included in the Code of Development.

4-910

Height Requirements

- 1. Primary structures other than single family homes shall be a minimum of two stories unless buildings of less than two stories are expressly authorized by the Code of Development; provided that it is the intent of this ordinance that the predominant building type shall be two to four stories in order to provide the massing of buildings necessary to create the feel and function of a traditional town.
- 2. The maximum building height shall be:
 - four (4) stories and 55 feet for non-residential buildings and mixed commercial/residential buildings; and
 - three and one-half (3 ½) stories and 40 feet for residential buildings.
 Additional height may be approved for specific buildings or areas by the Board in conjunction with the Code of Development for the rezoning in order to create focal points, help provide variety in massing or to otherwise further an urban design goal.
- 3. A variety of heights shall be provided within blocks along individual streets.

Building Requirements

1. MU Core: Floor to Floor Heights: Minimum thirteen (13) feet for all floor space (12 feet clear) provided on the ground floor of a commercial or mixed use building.
2. MU Core: Transparency: Along key commercial pedestrian-oriented streets, as identified in the General Development Plan, street-facing building façades shall be comprised of a minimum of 60 percent clear windows between two (2) feet and ten (10) feet in height that allow views of indoors. The bottom of any windows used to satisfy the transparency standard may not be more than three (3) feet above the adjacent sidewalk.
3. Doors and Entrances: Ground floor uses must have a primary entrance door facing the street, except in the Mixed Use Residential sub-district residential units may be approved having a primary entrance on an alley, trail, private street or driveway.
4. Building Variety: Monotony shall be avoided through the use of a variety of building styles, floor plans, widths, mass, setbacks, roof types, heights and slopes, entry details, height, trim detailing, porches, fenestration, materials and color.
5. De-emphasized Garages: Residential units shall be designed so that garages do not dominate the street. Garages rear-loading from alleys are preferred. Front-loading garages may only be approved where they are recessed a minimum of 10 feet behind the main building façade. Side loaded garages shall be allowed provided the garage mass is recessed a minimum of 10 feet behind the main building façade.
6. Traditional Design Elements:
 - A. Materials shall be utilized consistently on all façades of a building, with variations in materials occurring only on stories, projections, etc.; no false masonry fronts. Trim details shall also be consistent on all façades.
 - B. Windows shall be proportionate to the size of the façade and related to the form of the building, rather than randomly located per internal functions.
 - C. Roof overhangs shall be a minimum of one foot on single family homes.
 - D. Pitched roofs shall be utilized to promote variety, with 45 degrees generally the minimum pitch for such roofs. Flat roofs shall include a parapet wall screening any rooftop equipment.
 - E. Buildings shall be designed with architectural elements, cues and features that are evocative of the architectural vernacular of the Virginia piedmont and it's traditional, historic towns, and shall not include generic design approaches intended to identify a particular building with the user thereof.

Open Space, Sidewalks and Trails

Open space, sidewalks and trails shall be treated as an integral component of the development design. Small parks should be provided throughout the development within walking distance of all residents. In core areas, small open spaces such as plazas or courtyards shall be provided at appropriate locations to provide a focal point for the community and serve as gathering spaces. Larger developments should provide for active recreational opportunities for residents. Floodplains, wetlands and steep slopes shall be preserved and protected. The open spaces within the development should be utilized as an organizing feature and focal point for each neighborhood, and should form a network connected by sidewalks or trails, and connected to other open spaces.

1. Open Space

- A. For the Core and General Sub-districts, the area devoted to usable open space within each sub-district shall be no less than 10% of the gross site acreage of the sub-district, with all open spaces connected by sidewalks or trails.
- B. For the Residential Sub-districts, the area devoted to usable open space shall be no less than 20% of the gross site acreage of the sub-district. Residential neighborhoods shall be defined within the sub-district, each including and focused on at least one open space, and with all open spaces connected by sidewalks or trails. At least half of the open space shall be suitable for active recreation use and shall be designed accordingly, with appropriate facilities provided in conjunction with the development. Examples of active recreation facilities include tot lots, play fields, pools, etc.
- C. Rules for Calculating and Qualifying Open Space in the MU District:
 - i. The connecting sidewalks and trails shall not be counted toward the open space requirement; except that where such trails or sidewalks continue through open spaces, that portion of the trail or sidewalk within the open space may be counted as open space.
 - ii. No open space shall be less than 50 feet by 50 feet in dimensions, and no space may be counted toward usable open space except where the applicant demonstrates as part of the concept plan approval how the space is a deliberately planned integral part of the development functioning as open space.
 - iii. Utility easements and stormwater management facilities shall not count toward meeting the open space requirement, unless such facilities are underground and the space above is fully usable, or the facilities are designed and integrated as usable parts of an open space feature.

2. Sidewalks and Trails

- A. Sidewalks shall be provided on both sides of all streets. Minimum sidewalk widths shall be 5 feet, except along major commercial and other key pedestrian oriented streets, where the minimum width shall be 10 feet. Where specific gathering places are located, such as restaurants where outdoor dining is desirable, opportunities for farm markets, places for

seasonal kiosks or pergolas, wider sidewalks are strongly encouraged in Mixed Use areas adjacent to active uses to provide space for outdoor dining and activities.

- B. Trails shall be provided in a general location and manner as shown in the County's Comprehensive Plan or Connections Plan.
- C. Pedestrian connections shall be provided through parking lots to buildings.

4-913

Streets and Alleys

A transportation plan that is conducive to and supports Service District Transportation Plans as specified in the Comprehensive Plan shall be submitted as part of the MU rezoning process. Entrance and egress points of a Core or MU-General development should occur at numerous locations to permit vehicular and pedestrian traffic to access the development from a wide area and adjacent collector and arterial roads. Streets shall be designed to consider their influence on the pedestrian character of the neighborhood as well as their carrying capacity. Streets are to be planned using a grid pattern or loose network forming blocks. Mid-block pathways or alleys should be used when appropriate to allow pedestrians to walk through the long side of each block. Street trees shall be provided within adequate planting strips between the sidewalk and the pavement on both sides wherever possible of every street. Future public transit should be considered in street design. On-street parking shall be provided on all streets. The street layout shall be based on a hierarchical system. The plan, through its design, should seek to minimize vehicular speed and short cutting while making walking, cycling and future public transit safer, easier and more pleasant. Alleys shall be used wherever possible in order to place garages and utilities at the rear of lots so that the streetscape is maintained with house fronts and not dominated by garage doors and utility structures.

4-914

Landscaping & Buffering Requirements

- 1. The plan for development shall seek to incorporate into the site design significant existing stands of trees and individual trees on the property as part of the landscape plan.
- 2. Tree Canopy: At least ten percent tree canopy shall be provided within the MU district, as calculated pursuant to Section 7-600.
- 3. Street Trees.
 - A. Street Trees shall be provided along all existing and proposed streets in the development.
 - B. Street Trees shall be large shade trees a minimum 2 ½ inch caliper at planting.
 - C. Street Trees shall be planted in an even row adjacent to or within the right-of-way 30 to 40 feet on center. Where necessary, spacing allowances may be made to accommodate infrastructure elements.
 - D. Street Trees located outside of a public right-of-way shall be protected through an open space or easement arrangement and shall be maintained by a property owner's association.

4. Parking Lot Landscaping:

- A. An area equal to no less than five percent of the paved parking and vehicular circulation area shall be landscaped with trees or shrubs. This shall include a minimum of one (1) large shade tree per ten parking spaces or portion thereof. Interior landscaping shall be located in reasonably dispersed planting islands or perimeter areas. Shrub plantings adjacent to a building shall not be counted as parking lot landscaping.
- B. Where a parking lot is located such that the parked cars will be visible from the street or a single family residential area, a masonry wall, architectural grade wooden fence and/or landscaping of low shrubs shall be required to screen the parking lot. Shrubs shall be located at the perimeter of the parking area and planted in a single row no more than four (4) feet on center. Alternate methods of landscaping designed to minimize the visual impact of the parking lot may be approved by the County as part of the rezoning approval. The screening requirement may also be waived as part of the rezoning approval for small parking areas serving 6 or fewer spaces.

5. Buffering and Screening

- A. A minimum 50 foot wide off-lot landscaped buffer shall be provided between proposed MU development and any property located outside of the Service District. This buffer is intended to substantially screen the development from all view sheds outside the service district during all seasons of the year. In lieu of the 50 foot landscaped buffer, other elements such as topography and existing tree lines may be utilized where such alternatives meet the screening goal and are approved as part of the Concept Development Plan approval.
- B. Where existing agricultural or residential uses adjoin the proposed mixed use development within the Service District the need for buffers and screening shall be evaluated on a case-by-case basis as part of the Concept Development Plan approval. While the overall goal is to knit new and existing neighborhoods within the Service District together, buffers may be required as part of the approval where incompatible uses adjoin or other issues identified by the Board in the review of the plan support the need for such buffers.
- C. A minimum 50 foot buffer to include landscaping shall be provided between single family and townhouse residential development and any major collector or arterial where such residential units are not designed to front thereon.
- D. For major arterials or other streets not planned to have development facing the street, a minimum 50 foot buffer to include significant landscaping shall be provided between the development and such streets. The intention is to completely block the development from view, maintaining the existing rural character of the street. Where the size of existing parcels does not allow the provision of the 50 foot buffer without major impact to redevelopment, the size of the buffer may be reduced in favor of a more intensive landscape plan achieving the same goal in conjunction with the rezoning approval. The determination as to which streets shall require such

buffering shall be established through the rezoning process based on guidance from the Comprehensive Plan.

- E. All loading and utility areas shall be screened from view of the street and from view of residential neighborhoods.

4-915

Parking and Loading

1. Parking requirements for non-residential uses shall be based on the requirements of Article 7, provided however that an automatic 20 percent reduction in parking is authorized within the Mixed Use Core and General areas pursuant to Section 7-102.4. Shared parking is strongly encouraged where appropriate, and additional reductions in parking may be granted pursuant to Section 7-102.18. Within the MU District, the goal shall be to minimize parking and impervious surfaces.
2. Notwithstanding the requirements of Article 7, two parking spaces shall be provided for each single family dwelling unit and Live/Work unit, and 1.5 spaces shall be provided for each other type of residential unit.
3. Notwithstanding the requirements of Article 7, on-street spaces may be counted toward required parking where a parking impact assessment submitted by the applicant in conjunction with the rezoning application demonstrates that the overall mix of on and off street parking planned will adequately meet the parking requirements of the proposed uses as well as visitor parking requirements.
4. Off-street parking and loading shall be located to the rear of the principal building or otherwise screened with walls, fencing and/or landscaping as set forth above, so as to be minimally visible from the public right-of-way or residential zoning districts.
5. Notwithstanding the requirements of Article 7, loading space requirements may utilize required parking space areas in those cases where it can reasonably be determined that loading activities will not interfere with peak parking demand.

4-916

Lighting

All lighting within a MU district shall be designed to be consistent with the human-scaled orientation of the development, oriented toward pedestrians rather than vehicles and promoting a main-street character. The Code of Development shall incorporate general lighting guidelines for the development which are consistent with traditional town and neighborhood design and also seek to reduce lighting levels below those allowed pursuant to Article 9 of the Zoning Ordinance, further protecting dark-skies and creating mixed use communities with lighting levels appropriate for main-street areas that include residential uses.

4-917

Signage

Notwithstanding the provisions of Article 8, Signs, an applicant for a MU district shall design a sign package for the proposed development to be approved with the rezoning as part of the Code of Development. Such package shall ensure that signs within the development are of a pedestrian oriented character and scale. Such sign package must detail the size, height, number, type and character of signs permitted in the district and,

once adopted, will regulate all signs within the development in lieu of Article 8 of the Zoning Ordinance.

4-918

Standards for Approval of a MU District

In addition to the specific requirements of this section and the standards for rezoning for all development contained in Section 13-200, the following standards shall be utilized and adhered to by the Planning Commission and Board of Supervisors in determining whether to approve the proposed development:

1. The Board may use its discretion to prioritize mixed-use applications to best support the Comprehensive Plan. A proposed MU-General development must be demonstrated to not detract or otherwise draw commercial development from a future or existing Core, as designated in the Comprehensive Plan. Thus, priority may be given to the development of a vital town or village center over, for example, a MU-General development at the edge or out of walking distance to the anticipated focal or town center.
2. The design of the development is such that it will achieve the stated purpose and intent of the MU District, contributing to the creation of a vibrant pedestrian oriented mixed use area within the Service District that feels and functions like a traditional town providing a center for employment as well as a center for retail, service, entertainment, cultural and civic activities for workers, residents and visitors.
3. The development is in substantial conformance with the adopted Comprehensive Plan with respect to type, character and intensity of use and public facilities.
4. The development provides for a mixture of compatible land uses, including a mixture of uses within buildings where appropriate.
5. The development provides for a mixture of housing types, sizes, and affordability. Housing in a range of sizes and styles is integrated throughout the development. Lower priced units are scattered throughout the neighborhood rather than concentrated in one location. Opportunities for accessory apartments and live-work units are provided where appropriate.
6. The development is designed with a pedestrian orientation, with clearly defined continuous sidewalks and paths enhanced by trees, pocket parks, seating and other streetscape elements. Buildings are located close to the sidewalk with the mix of uses providing for a variety of possible pedestrian destinations within walking distance of each other. Defined pedestrian connection shall be provided between parking areas and the buildings they serve.
7. Buildings and spaces within mixed use developments are designed to create neighborhoods that are attractive and inviting, and in keeping with the feel, style and architectural vernacular of a traditional town in the Virginia piedmont. The elements of building height, setback, yards, architecture and spatial enclosure as established by the Code of Development for the project all contribute to the appearance and function of the development.
8. Streets are designed to consider their influence on the character of the neighborhood as well as their carrying capacity. Street networks provide multiple connections internally and connect through to adjoining properties where appropriate, providing

multiple routes to any destination. Generally, local streets are narrower, minimizing pavement. Parking is accommodated on the street. Utilities are provided within the street wherever possible, in order to accommodate a streetscape that includes street trees as well as sidewalks.

9. Open space is treated as an integral component of the development design. Small parks are provided throughout the development within walking distance of all residents. In core areas, small open spaces such as plazas or courtyards are provided at appropriate locations to provide a focal point for the community and to serve as gathering places. Larger developments provide for active recreational opportunities for residents. Natural and environmentally sensitive areas are preserved and protected. The open spaces within the development are connected by sidewalks or trails, and connected to other open spaces.
10. The development minimizes the amount of parking provided, maximizing opportunities for on-street parking and shared parking. Parking for commercial uses are located to the rear and side of buildings and dispersed in smaller lots where possible, so that it does not dominate the street. Larger parking lots are laid out to accommodate future intensification and redevelopment in appropriately sized blocks. In residential areas, garages are predominately located to the rear, with alley access, returning the street to the pedestrian. Where garages are fronting on streets rather than alleys, they are designed such that they are not a prominent feature of the street, with side-loading doors and greater setbacks than the remainder of the house.
11. Lighting is traditional in form and consistent with the human-scale orientation of the development, oriented toward pedestrians and minimizing impacts on dark-skies.
12. The proposed sign package is consistent with the human-scale orientation of the development, oriented toward pedestrians rather than vehicles and promoting a main street character.
13. The development efficiently utilizes the available land and protects and preserves floodplains, wetlands and steep slopes.
14. The proposed development provides for a reasonable and sustainable transition to adjoining development, with open space, landscaping and/or larger lots utilized to provide buffers where appropriate. The development is designed to prevent substantial injury to the use and value of existing surrounding development, and shall not hinder, deter or impede use of surrounding properties in accordance with the adopted Comprehensive Plan.
15. The development shall be located in an area in which transportation, police and fire protection, other public facilities and utilities, including water and sewer, are or will be available and adequate for the uses proposed; provided, however, that the applicant shall make provision for such facilities or utilities which are planned but not presently available.

4-919

Process for Rezoning to the MU District

Rezoning to the MU district shall be established by amending the Zoning Map of Fauquier County. The procedures and application requirements for such an amendment shall be generally as set forth in Section 13-200 of this Ordinance except as otherwise

specifically provided in this Section. In the event of conflict between the provisions of Section 13-200, the provisions of this Section shall prevail.

4-920 (Deleted)

4-921 Submission Requirements for Rezoning to the MU District

All applications for rezoning to the MU District shall include the information listed below. These submission requirements shall be in lieu of those listed in Section 13-202(C).

1. A completed land development application form, signed by the property owners and applicants (10 copies).
2. A filing fee in accordance with a fee schedule adopted by the Board.
3. A conflict of interest statement as set forth in Section 13-203.
4. A traffic impact study.
5. A parking impact study demonstrating that the proposed on and off-street parking proposed is sufficient for the planned development.
6. A regional context map at a scale not less than one (1) inch equals one thousand (1000) feet showing topography at a maximum of ten (10) foot intervals, surrounding properties, improvements to those properties, and surrounding public and private streets (10 copies).
7. An existing conditions plan meeting the requirements of Section 4-922 (10 copies).
8. A statement of justification describing how the proposed development satisfies the intent of the MU district, is consistent with the goals and objectives of the Comprehensive Plan, meets the requirements of the MU district and meets each of the specific standards set forth in Section 4-917. Where the applicant is requesting a waiver of any provision as authorized by this Part, the applicant shall specifically justify why the desired characteristic cannot or should not be provided (10 copies).
9. A General Development Plan meeting the requirements of Section 4-923 (10 copies).
10. A Code of Development meeting the requirements of Section 4-924 (10 copies).

4-922 Existing Conditions Plan

The existing conditions plan shall provide the following information:

1. An accurate boundary survey of the tract proposed for development, showing the location and type of boundary evidence;
2. Zoning of the tract and adjoining parcels, including zoning district boundaries;

3. The following existing physical conditions: streams, wooded areas, potential wetlands, slopes in excess of twenty-five percent, historic structures and sites included in the records of the Virginia Department of Historic Resources and floodplain;
4. Existing topography accurately shown with a maximum of two (2) foot contour intervals at a scale of not less than one (1) inch equal to one hundred (100) feet; other interval and/or scale may be required or permitted by the Director where topographic considerations warrant;
5. Existing roads, easements and utilities within and adjoining the property, to include the names and route numbers of all streets and the widths of all streets and easements;
6. The existing location, type and size of ingress and egress to the site;
7. Existing uses, buildings and structures on the tracts and on adjoining parcels, if any;
8. Existing owners of tract and adjoining parcels.

4-923

General Development Plan

The General Development Plan shall provide the following information:

1. Wetlands, floodplain, streams, other significant environmental features, and historic resources and elements proposed to be preserved;
2. Proposed grading/topography with a maximum of two (2) foot contours;
3. A general street, block and open space layouts, including:
 - A. proposed streets, alleys, sidewalks and pedestrian paths,
 - B. connections to existing and proposed streets adjoining the development property, including streets proposed in the County’s Comprehensive Plan,
 - C. delineation of key pedestrian streets
 - D. size, location, character and connections between proposed open spaces;
4. The general layout for the water and sewer systems, and a conceptual stormwater management plan;
5. A Type I Soil Report prepared by the Fauquier County Soil Scientist’s Office or a Preliminary Soil Report prepared by a certified professional soil scientist and approved by the County Soil Scientist, such reports to be consistent with the standards found in Fauquier County Subdivision Ordinance Section 9.5(C).

4-924

Code of Development

The Code of Development shall include all information as established by the “Outline for Code of Development” adopted by the Fauquier County Board of Supervisors by Resolution on October 14, 2010, and as may thereafter be amended.

1. Architectural Design Element of the Code of Development

The Board may allow the detailed architectural design controls portion of the

Code of Development to be approved as a separate step, after the rezoning, where it determines that sufficient conceptual information on architectural styles is submitted and approved with the rezoning to establish a clear framework for required design. Where allowed to be approved separate from the Rezoning, the Architectural Styles appendix of the Code of Development must be approved prior to any submission of a plan for approval involving a building. The document may be administratively approved by the Zoning Administrator upon a finding that:

- The styles are those generally approved in the initial rezoning or the developer has documented historic precedent within Fauquier County for the style.
- The details include massing, roof-lines and eaves, porches, windows, doors and trim consistent with historic precedents.

2. Signage Element of the Code of Development

The detailed signage provisions may be submitted within the Code of Development or may be approved as a separate step, at the option of the Applicant. Where not included as part of the initial Rezoning, the detailed Signage Appendix to the Code of Development shall be approved prior to placement of any sign on-site and prior to approval of any development plan for the project. This document shall be approved by the Board of Supervisors as an amendment to the Code of Development.

4-925 Validity of the Approved General Development Plan

The approved plan shall specify the period of time for which the Plan shall remain valid and what actions must be performed and in what manner in order to continue or extend the period of validity. Upon expiration of any plan no development may occur until the plan is reapproved by the Board of Supervisors in accordance with the provisions of Section 13-200.

4-926 Deviations from the General Development Plan and Code of Development

Development of the MU district shall be in substantial conformance with the General Development Plan and Code of Development. Minor deviations from the approved Concept Plan and Code of Development may be permitted as specifically set forth within the approved Code of Development. All other changes shall require amendments to the approved rezoning.

4-1001 Overview

A. Introduction and Purpose

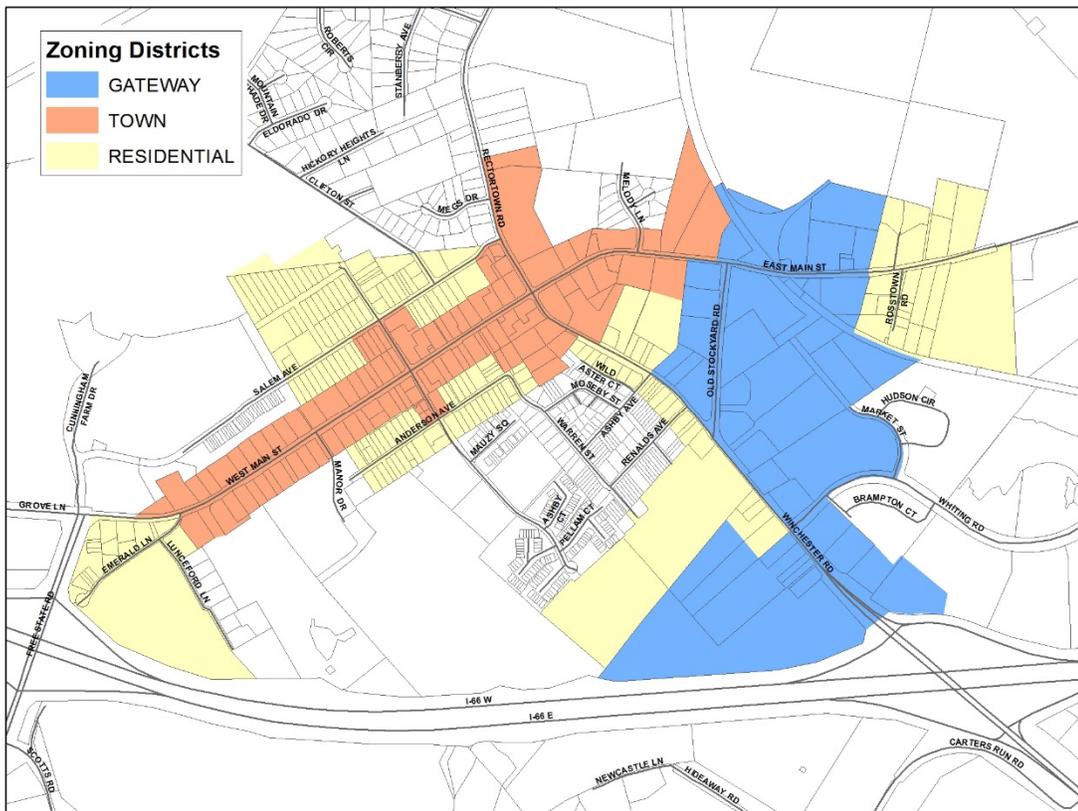
The Marshall Service District Plan adopted in 2011 recognized that conventional zoning has been ineffective at regulating and encouraging the diverse, urban mixed-use environment desired in Marshall. That Plan specifically called for development of a Form Based Code to implement the vision for Marshall along the Main Street corridor and also called for new zoning approaches to other key areas, including the Salem Avenue and Southern Gateway areas. The Plan also called for the implementation of a Historic District.

The Marshall Code replaces existing zoning regulations for most of downtown Marshall. This Code represents a paradigm shift in the way the built environment will be regulated in the heart of Marshall. Unlike conventional codes, which typically focus on uses, this code uses the intended form and character of Marshall as the organizing principle or framework for the code and provides significant flexibility in use. The areas shown on Map 1 are covered by the districts established by the Marshall Code. The remainder of the areas within Marshall remain covered by the existing Zoning Ordinance districts.

The Code also provides for a local Historic District in Marshall. Lots with buildings designated as a Contributing Structures are included, as well as infill lots on Main Street and Winchester Road.

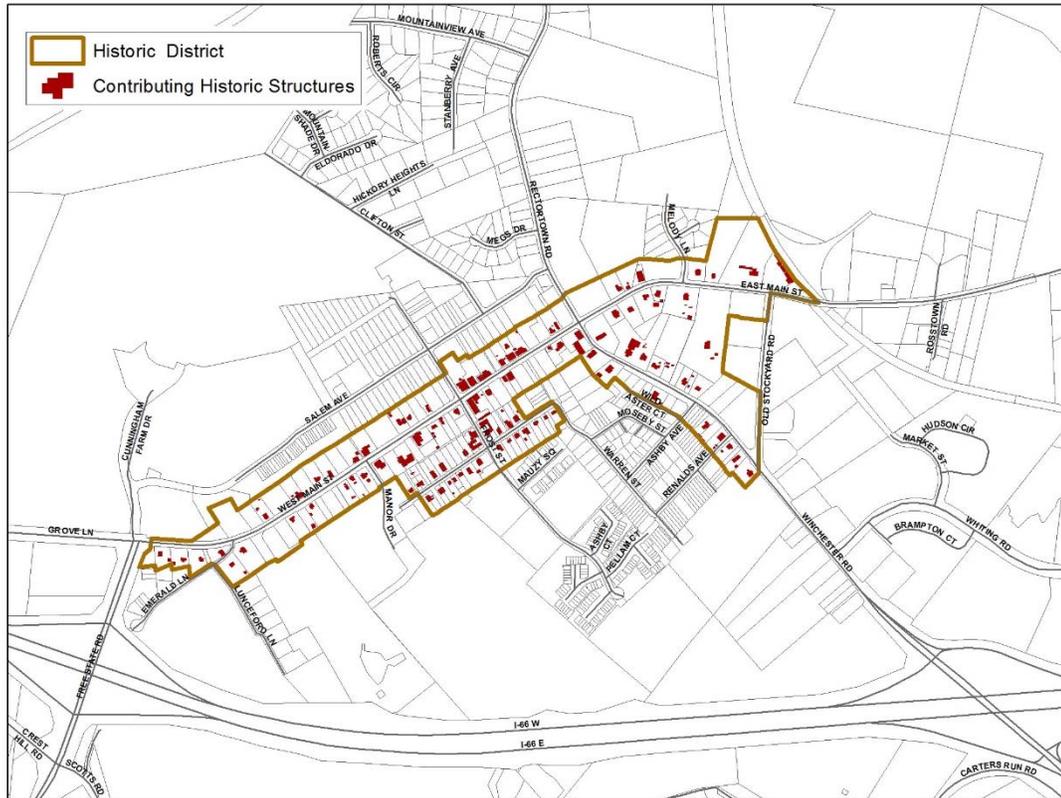
4-1001 Map 1 The Marshall Regulating Plan

Note: This Map is not the Official Zoning Map. The Official Zoning Map is stored on the Fauquier County GIS System.



4-1001 Map 2 The Historic District

Note: This Map is not the Official Historic District Map. The Official Historic District Map is stored on the Fauquier County GIS System.



B. Applicability

In addition to all applicable Federal, State and County laws and regulations governing land use and development in Fauquier County, this Marshall Code applies to all land identified on Maps 1 and 2.

The Marshall Code is part of the Fauquier County Zoning Ordinance. It establishes requirements within the three neighborhoods in Marshall covered by the Code: Town, Gateway and Residential. Certain requirements from other Chapters of the Fauquier County Zoning Ordinance continue to apply within the Marshall Code area, and the Marshall Code cross-references these additional requirements. In any case where the Marshall Code conflicts with any provision of the remainder of the Fauquier County Zoning Ordinance, the requirements of the Marshall Code shall prevail.

C. Organization of the Marshall Code

The following text provides a brief overview of the organization of the Marshall Code.

4-1001 – Overview. Introduces the basis for the Code, provides an overview of the parts of the Code and summarizes how to utilize the Code.

4-1002 – Specific Neighborhood Requirements. Establishes neighborhood specific standards for lot requirements, building placement, building form, streets and access, parking and fencing. Requirements are designed to promote a walkable, mixed use community.

4-1003 – Historic District Requirements. Establishes additional requirements for building design within the historic area. The intent is to preserve and protect the existing character of Marshall.

4-1004 – Definitions. Defines terms used throughout the Marshall Code.

4-1002 Neighborhood District Requirements

A. Purpose

This Section provides regulatory standards governing lot and building form as well as uses. The Code is a reflection of the community vision for implementing the intent of the Comprehensive Plan to create a walkable, connected town that respects and strengthens the existing character of Marshall.

B. Applicability

The standards of this Section shall apply to all proposed development within the neighborhood zones, and shall be considered in combination with the Historic District provisions in 4-1003. If there is a conflict between standards, the stricter standard shall apply.

C. Neighborhood District Overview

The standards in this section regulate lot layout, building form, street design and access, parking, landscaping and screening, and uses for each of the three neighborhood zones established within this Code. The regulating plan shows the boundaries of each Marshall district, and the Summary below provides an overview of each district.

Note: The table below provides an overview of requirements; refer to the specific text in the Code for actual requirements.

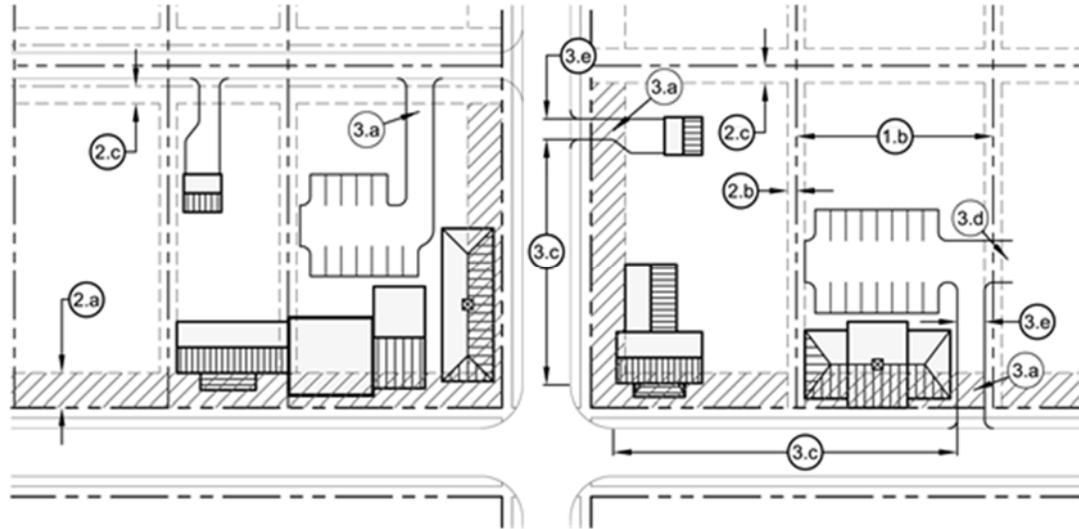
Town	Gateway	Residential
		
Intent	Intent	Intent
To provide for a concentration of business activity, with interspersed residential uses, reinforcing the development of a “downtown” Marshall, with pedestrian-filled sidewalks, outdoor cafes, and the like, all lining the street.	To provide for mixed use development in a form that creates a more “in-town” feel in a predominately auto oriented area, creating a secondary area of business activity off Main Street, with strong pedestrian connections to Main Street.	To protect and extend the fabric of the existing small to medium-lot single family homes and enhance and extend walkability.
General Use	General Use	General Use
Mix of residential and commercial uses, with storefronts and other business uses dominating the street frontage.	Larger scale commercial uses with limited multifamily uses.	Primarily residential with limited neighborhood supporting services.
Desired Form	Desired Form	Desired Form
Primarily Detached, with some Attached Buildings	Detached and Attached	Detached

Small to Medium Lot Width
Small Building Footprint
Small to No Front and Side Setbacks
Up to 2-3 stories; tallest buildings between Winchester Road and Manor Street.

Medium to Large Lot Width
Small to Large Building Footprint
Small to Moderate Front Setbacks
Up to 3 ½ Stories

Small Lot Width
Small Building Footprint
Small to Moderate Side Setbacks
Up to 3 Stories

D. Lot Requirements

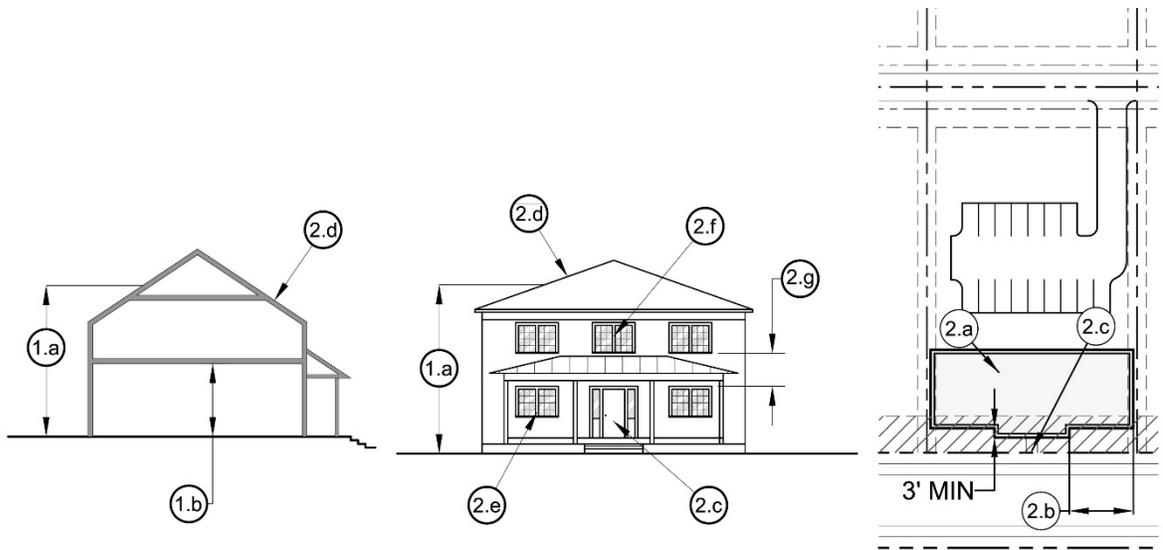


	Marshall - Town	Marshall - Gateway	Marshall - Residential
1. Lot Size and Shape			
a. Lot Area - Minimum	5,000 sf except 9,000 sf single-family residential See Section 4-1002.G.3(a) for cluster	10,000 sf	9,000 sf See Section 4-1002. G.3(a) for cluster
b. Lot Width - Minimum	40'	50'	45'
c. Lot Width – Location	On public street; or on alley; or on private street 1) if approved by waiver pursuant to Section 4-1002.I or 2) where allowed in cluster subdivisions per Section 4-1002.G.3(a).		On public street except where alternative allowed in cluster subdivisions per Section 4-1002.G.3(a).
d. Lot Shape	Generally rectangular	--	Generally rectangular
A legal lot of record that does not meet the Lot Area, Lot Width and Lot Shape requirements may be developed, and may be divided or expanded provided the changes do not increase non-compliance with these standards.			
2. Lot Setback			
a. Front Setback	0' minimum 20' maximum except, 10' maximum between Manor Street and Winchester Road	10' minimum 40' maximum	10' minimum 25' maximum
	Additional 10' allowed for plazas and sidewalk café spaces along 50% of the building frontage on the lot		
	Lots with contributing historic structures may maintain the existing front yard setback.		
b. Side Setback	0' minimum 15' maximum except on lots between Manor and Winchester 5' maximum; may be increased to 20' for a driveway	0' minimum 20' maximum Additional setback allowed for parking bays authorized pursuant to Section 4-1002.F.2	10' minimum 5' minimum cluster

c. Rear Setback	10' minimum; drive aisles for parking lots and for inter-parcel connectors may be located within the rear setback area.	
New structures not meeting the front build-to requirement are allowed when placed to the rear of an existing structure provided the existing structure occupies at least 50% of the lot frontage.		
Existing structures not meeting setback requirements are provided additional flexibility in setbacks, per Section 4-1002.H.		
3. Lot Access		
a. Location	Access shall be taken from an alley or side street rather than the main street where an alley or side street exists adjoining the property	
b. Limited Curb-Cuts	A maximum of one point of ingress/egress is allowed onto the main street where alley access and/or side street access is not available	
c. Distance from Intersection	No access point shall be located closer than 100' from the curb line of any street intersection, or more if required by VDOT.	Minimum allowed by VDOT
d. Distance from Property Line	Any driveway access located within 10' of a side property line shall be designed to allow access to adjoining lots where such shared access is not precluded by the existing layout of development on adjoining lots.	--
e. Width of Curb-Cut	Driveways and aprons shall have a maximum width of 12' for single-family dwellings and 16' for other uses. Where existing uses have larger or undefined curb-cuts, their size shall be reduced as development occurs.	

The Zoning Administrator may approve a modification to Lot Access requirements in conjunction with Site Plan approval where the modification is required by VDOT, where the modification results in improved traffic flow on the site or in the overall area, or where the requirements cannot be met because of lot size or shape.

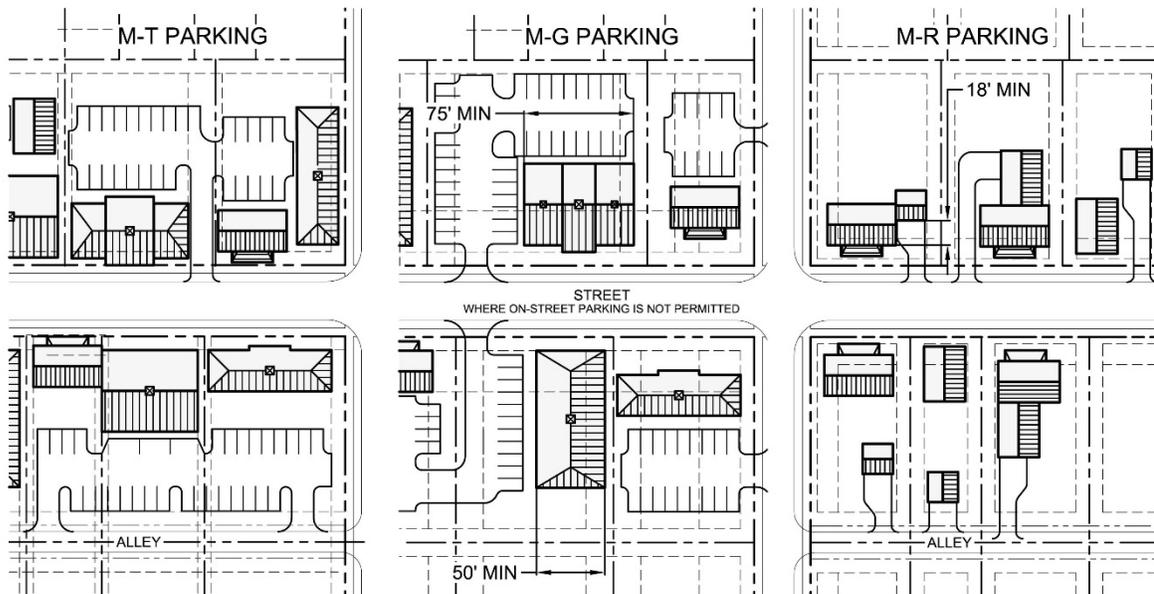
E. Building Form Requirements



	Marshall - Town	Marshall - Gateway	Marshall - Residential
1. Building Height			
a. Height - Feet	35' maximum, except 42' between Manor Street and Winchester Road with a minimum of 2 functional stories	45' maximum, except 35' fronting Winchester Road or Main Street	35' maximum
b. Height - Feet	Height limits do not apply to chimneys, spires, cupolas, elevator penthouses, flagpoles, flues, antennas, air conditioning units and other similar roof structures/mechanical appurtenances provided the features do not exceed 25% of the roof area and non-architectural elements are screened. The BOS may increase height upon a finding that the proposed height, in combination with the building massing and design, comply with the vision of the Marshall Service District Plan.		
c. Ground Floor Ceiling	12' minimum for at least the front half of the first floor of all commercial or mixed-use buildings fronting a public street	--	--

2. Building Massing			
a. Footprint – Per Building	5,000 sf maximum	15,000 sf maximum, except 5,000 sf maximum fronting Winchester Road or Main Street	5,000 sf maximum
	The BOS may increase footprint size upon a finding that the proposed footprint, in combination with the building massing and location, comply with the vision of the Marshall Service District Plan.		
b. Massing – Minimum 3' Break in Plane of Front Façade or of Roof Line	Every 50'	Every 75', except every 50' fronting Winchester Road or Main Street.	--
c. Entrance	Each building shall have a primary pedestrian entrance on the main street for each first-floor use fronting the main street or public open space. No garage doors or similar doors/openings shall front the main street.		
d. Roof Form	Gable, Gambrel, Hip, or Flat with parapet.		Gable, Gambrel or Shed
e. Window and Door Openings – 1st Floor Frontage	40% minimum	30% minimum	--
f. Window and Door Openings – Upper Floors Frontage	20% minimum	20% minimum	--
g. Window and Door Openings - General	Lengths of walls without windows for greater than 20 linear feet fronting streets are prohibited.		--
	Wall openings may not vertically span more than one story, with 3' minimum separation provided between stories.		
	No individual opening shall exceed 50% of the openings on a floor, except on the first floor or on a half story with dormers.		
	Contributing historic structures are exempt from these requirements and, shall, instead, maintain the amount of openings consistent with the original building.		
Extra flexibility in Section 4-1002.E.2 requirements is provided for existing buildings per Section 4-1002.H. Mobile Eating Establishments are exempt from the requirements listed in Sections 4-1002.E(1) and 4-1002.E(2) above.			
3. Fencing			
a. Fencing – Front Yard	4' height maximum; must be open		
b. Fencing – Side/Rear Yard	7' height maximum		
Extra flexibility for existing fencing is set forth in Section 4-1002.H.			

F. Parking Requirements



	Marshall - Town	Marshall - Gateway	Marshall - Residential
1. Amount of Parking Required			
a. Required Number of Parking Spaces	Residential Single-Family Dwelling: 2 spaces per unit Residential Multi-Family Dwelling: Studio or 1 bedroom unit: 1 space per unit Residential Multi-Family Dwelling: 2+ Bedroom Unit: 2 spaces per unit Accessory Dwelling Unit: 1 space Eating Place, Theater or Meeting Facilities: 1 space per 3 seats but no less than 3 spaces per 1,000 nsf All Other Uses: 2.5 spaces per 1,000 nsf of building, except 3.0 spaces per 1,000 in Gateway		
b. Parking Reduction as Incentive to Retain Contributing Historic Structures	In conjunction with any approval to re-use a Contributing Structure within the Historic District the commercial parking requirement is reduced by 2/3 for commercial uses utilizing a Contributing Structure. The parking requirement for additional commercial buildings placed on the parcel with a contributing structure is reduced by 1/3.		
c. Loading Spaces	None Required		
d. Shared Parking and Off-Site Parking	Parking is encouraged to be shared with other properties and uses. Shared parking may be counted toward meeting the parking requirement if an analysis is provided showing, to the satisfaction of the Zoning Administrator, that parking demand for the multiple uses reasonably allows for the shared parking. For any off-site parking, evidence of an agreement to utilize the parking must be provided. If the off-site parking is proposed to meet requirements for a newly constructed building, the agreement shall demonstrate that parking is available to the use for a minimum period of 25 years.		
2. Parking Location and Design			
a. Parking Location	Parking must be provided on-site or off-site within 500 feet of the lot. On-street parking cannot be counted.		
b. Parking Location On-Lot	Parking shall be located behind buildings that adjoin the street. On corner lots, a parking structure may adjoin the side street only if lined by buildings a minimum of 20' in depth. A parking lot may adjoin the side street on corner lots provided it meets the setback and screening requirements set forth in Section 4-1002.K.2.	The Marshall – Town rules shall apply except that on lots where on-street parking is not allowed by VDOT a single row of parking may be placed beside the building for buildings at least 50' in width and a double row of parking may be provided for buildings at least 75' in width. The parking shall be set back behind the front façade of the building and screening consistent with Section 4-1002.K.2 shall be provided.	Parking areas, carports and garages shall be located behind or beside buildings adjoining the street. When located to the side, the front edge of the parking area or structure shall be setback a minimum of 18' from the front façade of the building.
c. Parking Lot and Parking Space Design	All off-street parking facilities shall be designed to conform to the geometric and construction standards set forth in Section 304 of the Fauquier County Design Standards Manual. Modifications may be granted by the Zoning Administrator to facilitate development consistent with the Marshall Service District Plan.		

G. Uses

1. Allowed Uses by Neighborhood District					
Use Category	Marshall - Town		Marshall – Gateway	Marshall – Residential	Standards (Sections)
	1 st Story Street Frontage on Main between Manor & Winchester	Other Locations			
a. Residential					
1. Dwelling, Single-Family Detached	PH	P	--	P	Cluster 4-1002.G.3(a)
2. Dwelling, Single-Family Attached	--	--	SE	P – Cluster Only	Cluster 4-1002.G.3(a)

3. Multi-Family, in Building with Commercial Frontage	--	P	P	--	--
4. Multi-Family, in Building without Commercial Frontage	PH/SE	PH/SE	SE	--	--
5. Accessory Dwelling Unit (w/ Single-Family Detached Only)	--	P	--	P	4-1002.G.3(b)
b. Government, Institutional, Public Assembly					
1. Medical Care, Residential Care and Assisted Living Facilities	SE	SE	SE	SE	--
2. Day Care/Pre-School	P	P	P	SP	--
3. Family Day Homes	--	A/SP	--	A/SP	4-1002.G.3(c)
4. Government Facilities, County	P	P	P	P	--
5. Meeting Facilities, including Places of Worship	P	P	P	SP	--
6. Museum	P	P	P	--	--
7. Post Office	P	P	P	--	--
8. Public Parking	SE	SE	SE	SE	4-1002.G.3(d)
9. Public or Private Schools	SE	SE	P	SE	--
c. Business					
1. Agricultural Supplier	--	P	P	--	--
2. Artisan Workshop or Studio w/Sales	P	P	P	--	--
3. Artisan Workshop or Studio w/o Sales	PH	P	P	--	--
4. Auction, Indoor	SE	SE	P	--	--
5. Auto Repair Shop	P	P	P	--	4-1002.G.3(e)
6. Bed & Breakfast, Inn, Hotel & other Short-Term Rentals	P	P	P	SP	4-1002.G.3(f)
7. Bank	P	P	P	--	--
8. Business Services	P	P	P	--	--
9. Cottage Industries	--	P	P	--	--
10. Drive-Through	SE	SE	SE	--	--
11. Eating Place	P	P	P	--	--
12. Farm Equipment Sales	P	P	P	--	--
13. Funeral Home	P/SP	P/SP	P/SP	--	--
14. Gas Station	P	P	P	--	4-1002.G.3(g)
15. Indoor Recreation, including Gym and Sports/Activity Center	P	P	P	--	--
16. Indoor Technical Schools	P	P	P	--	--
17. Medical Services	P	P	P	--	--
Use Category	Marshall - Town		Marshall – Gateway	Marshall – Residential	Standards (Sections)
	1 st Story Street Frontage on Main between Manor & Winchester	Other Locations			
c. Business cont.					
18. Office – Business/ Professional/ Contractor	P	P	P	SP Max 6 employees	
19. Personal Services	P	P	P	--	
20. Retail Sales	P	P	P	--	
21. Storage Area	--	P	P	--	4-1002.G.3(h)
22. Theater	P	P	P	--	
23. Veterinary Clinic & Pet Grooming	P	P	P	--	
d. Transportation, Communication, Utilities					
1. Telecommunication Facilities	--	P/A/SE	P/A/SE	P/A/SE	Article 11
2. Utilities, Entirely Below Ground	--	P	P	P	
3. Utilities, Any Portion Above Ground	--	SE	SE	SE	
e. Temporary Uses					
1. Construction & Rental / Sales Offices / Trailers	A	A	A	A	
2. Temporary Events	A	A	A	SP	4-1002.G.3(i)

3. Mobile Eating Establishments	P/A	P/A		5-807
f. Existing Uses				
1. Any use legally existing as of the date of adoption of this Marshall Code shall also be considered a Permitted (P) use. See Section 4-1002-8.				
KEY				
P	Permitted Use	SP	Special Permit	
PH	Permitted Use only in Contributing Structure	SE	Special Exception	
A	Administrative Permit Required	If Blank, Use Not Allowed (Uses not listed also not allowed)		

2. General Use Limitations

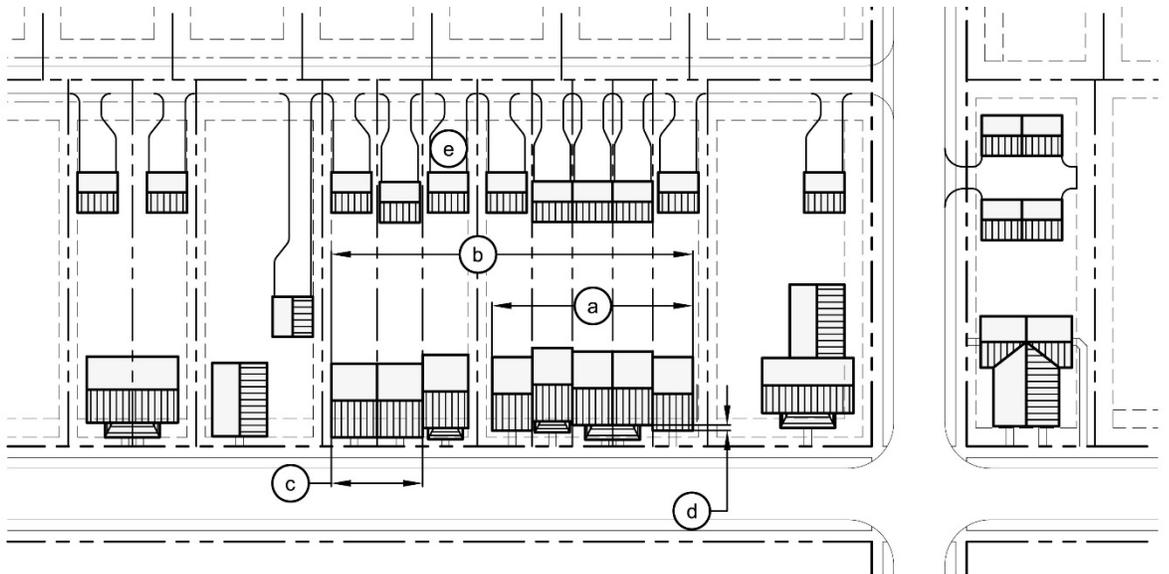
- a. A Zoning Permit is required to establish a new use, including changing from one use to another; see Article 13 Part 5 for Zoning Permit Requirements.
- b. Where an Administrative Permit, Special Permit or Special Exception is required, Article 5 of the Zoning Ordinance sets forth the application, review and approval procedures. All provisions of Article 5 shall apply, except the specific standards set forth in Article 5 for a particular use shall not apply unless specifically referenced in the Standards for Specific Uses, below. Applications shall be evaluated based on the General Standards in 5-006 and any Standards for Specific Uses set forth in Section 4-1002.G.3.
- c. A Site Plan is required for any development involving land disturbance, except for Single-Family Detached units. Article 12 of the Zoning Ordinance sets forth the rules for the different types of site plan approvals: site plan waivers, minor site plans and amendments, major site plans and amendments. All provisions of Article 12 shall apply except where a requirement conflicts with a specific requirement of the Marshall Code.
- d. Division of land shall occur in compliance with Chapter 13 of the County Code and the Subdivision Ordinance. To the extent any references to Chapter 13 refer to provisions of the Zoning Ordinance, the specific provisions of the Marshall Code shall apply instead. In order to promote high-quality, pedestrian-oriented, and residential infill, special cluster subdivision provisions are available in the Marshall – Residential District subject to the standards set forth in Section 4-1002.G.3(a).
- e. Accessory Uses and Structures are allowed and shall comply with Article 6 of the Zoning Ordinance, except as may be specifically authorized otherwise in this Marshall Code.
- f. Except on lots with Single-Family Detached Dwellings, multiple primary uses and multiple buildings may be located on a single lot. On lots with Single-Family Dwellings, only Accessory Dwelling Units and other accessory residential uses and structures are allowed.

3. Standards for Specific Uses

- a. Residential Single- Family Cluster Subdivisions

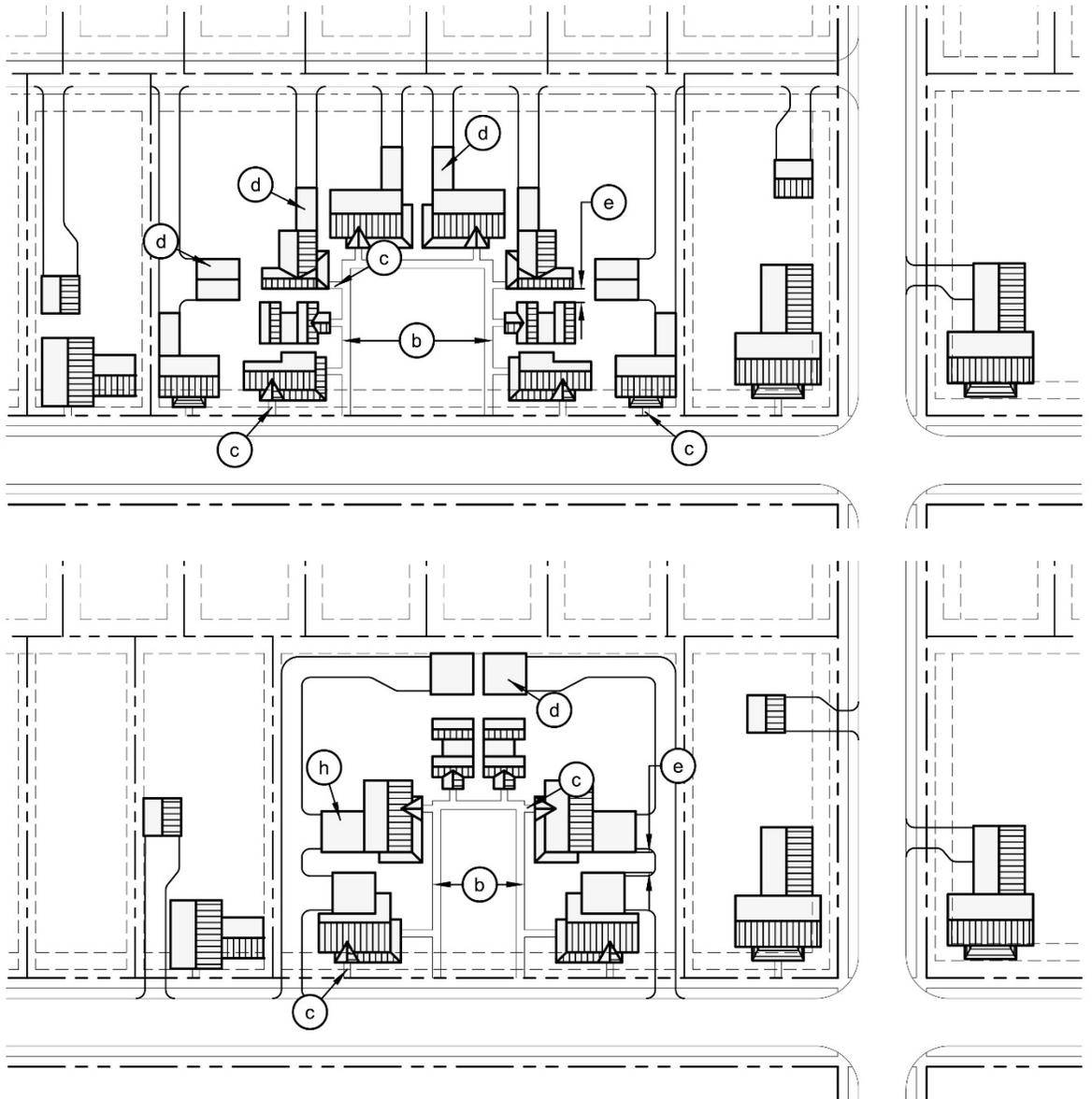
Within the Marshall-Residential Town District, the Cluster Option is authorized for development of at least one acre to promote pedestrian-oriented residential development that incorporates a range of housing types and sizes. The following standards shall apply:

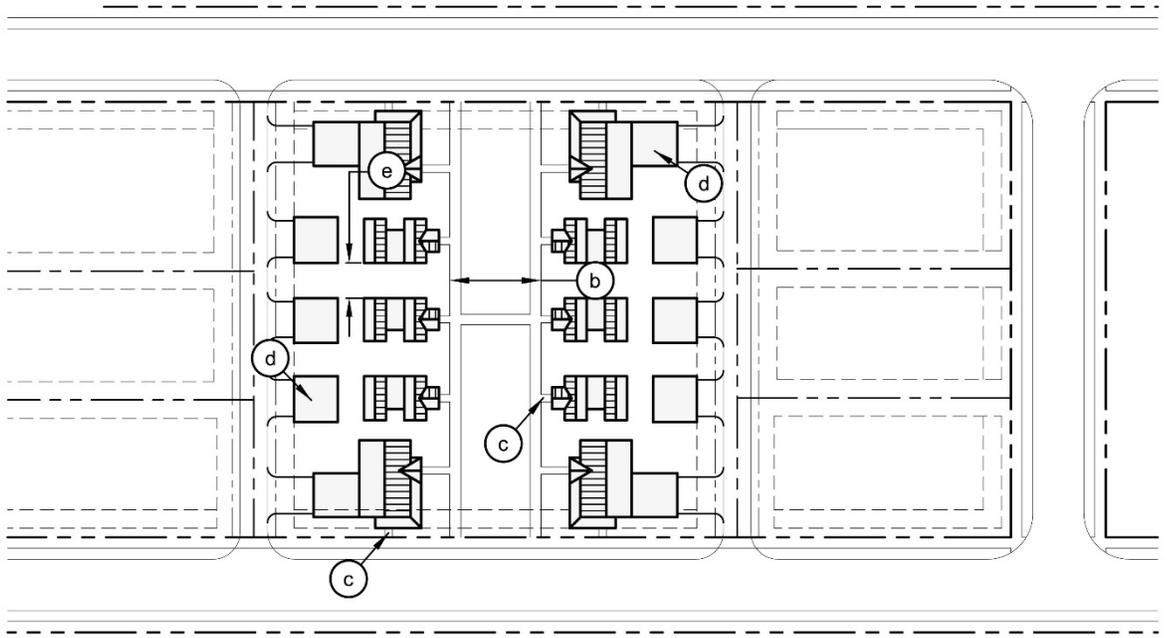
1. Lot sizes may be reduced provided the overall density of the proposed development does not exceed 5 units per acre.
2. Cluster open space is required pursuant to Section 4-1002.L.1(c) of this Code.
3. In addition to Single-Family Detached Units meeting all of the requirements of Section 4-1002, a Cluster Subdivision may incorporate both Attached Units and Courtyard Units, subject to the standards set forth below for these two unit types.
4. Attached Units



- a. Maximum number of attached units in a single townhouse building: 5.
- b. Maximum of 2 groups of adjoining attached units, with a maximum of 8 units.
- c. No more than 2 adjoining units with the same front plane.
- d. Minimum 2 feet change in plane.
- e. All garages loaded from the rear of units via alley; may be attached or detached garages.
- f. No more than 35% of the units in a subdivision can be Attached Units.

5. Courtyard Units



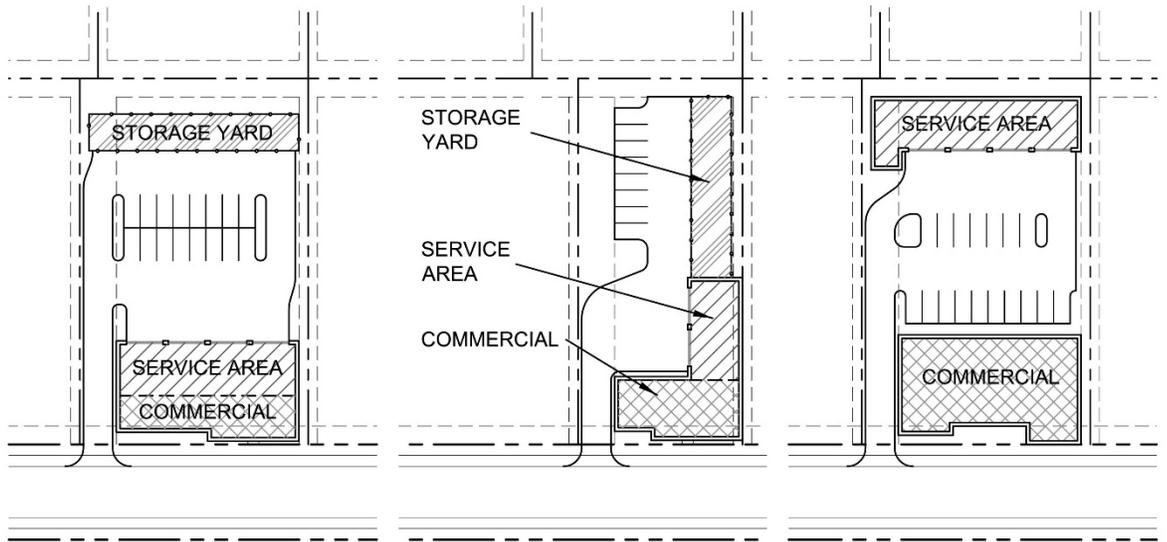


- a. Maximum of 10 units in a single Courtyard.
 - b. Must be arranged around a central common open space courtyard area no less than 30 feet in width
 - c. All entrances to the units shall face the Courtyard or the street and shall be connected by a walkway leading to the street.
 - d. All garages and parking areas located to the rear of units and accessed by an alley or shared driveway.
 - e. Minimum 5 foot separation between buildings.
 - f. Units may be on fee simple lots or on a single lot; interior lots require no public street frontage.
 - g. Not allowed on corner lots.
 - h. Maximum building footprint is 1,000 sf
 - i. Maximum height is 28 feet.
- b. Accessory Dwelling Unit
 - 1. The standards of Section 5-104 – Standards for an Administrative Permit for an Accessory Dwelling Unit shall apply to the Zoning Permit.
 - c. Family Day Homes
 - 1. The standards of Section 5-207 – Additional Standards for Family Day Homes shall apply.

d. Public Parking

1. Notwithstanding any other requirement of this Ordinance, a vacant lot or portion of a lot may be utilized to provide public parking provided screening of the lot is provided consistent with 4-1002.K.2 along any street the parking lot abuts and,
2. If the lot abuts Main Street, a minimum 10 foot setback shall be provided. The 10 foot setback area shall be landscaped with a variety of shrubs, shade and ornamental trees. If the frontage along Main Street exceeds 50 feet, a public seating area shall also be provided.

e. Auto Repair Shop



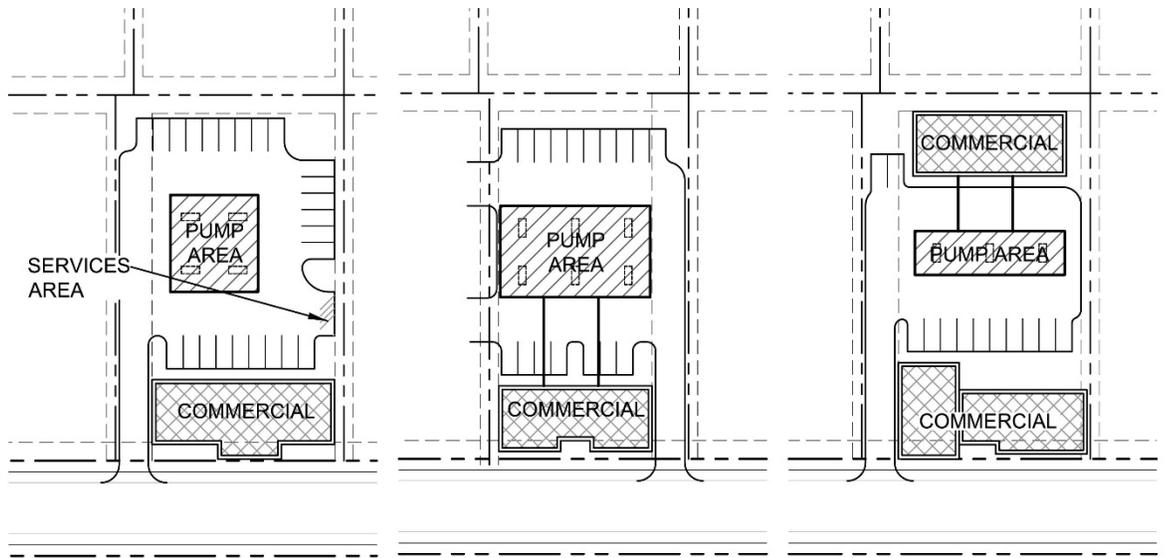
1. Only active commercial use, which may include the shop's interior display space and/or waiting areas shall be located along the street frontage.
2. Service Bays shall not be located along the street frontage; bays shall be located at the rear of the building and/or lot and screened so that they are not visible from the adjoining street.
3. All vehicles shall be stored and all work shall be accomplished within an enclosed structure or within a completely screened area. In no case shall vehicles be stored in the front-setback/build-to area on the lot.

f. Bed & Breakfasts, Inns, Hotels and Other Short-Term Rentals

1. Within the Marshall-Residential District, accommodations for a maximum of 8 people are authorized.
2. Within the Marshall-Town District, a maximum of 30 guest rooms is authorized.

3. Notwithstanding the requirements of Section 4-1002.D.2 and 4-1002.D.3, a larger side setback and drive aisle may be provided in order to create a covered drop-off area for guests.

g. Gas Station



1. The use shall only be permitted in combination with an associated retail and/or eating establishment. The retail use and/or eating establishment shall occupy the building frontage along the street.
2. Pumps and ancillary use areas, which may include car washes, vacuum, air and water services, shall be located behind the building and shall be screened from the street by buildings, with supplemental landscaping as necessary.
3. All pump canopies shall have a lower roof height and footprint than the main building.

h. Storage Area

1. Storage shall only be located within buildings if another use fronts the street or where the building does not front a street, or when outside, behind buildings; vacant properties may not be utilized as Storage Areas.
2. Outdoor Storage Areas shall be completely screened from view from streets, public open spaces and adjoining residential properties pursuant to the screening standard set forth in Section 4-1002.K.1.

i. Temporary Events

1. The applicant shall provide documentation to show that adequate sanitary facilities, parking, traffic control, safety and security arrangements are in place, to the satisfaction of the Zoning Administrator in consultation with the Health Department,

VDOT, Sheriff and Emergency Services. All activities must comply with all County ordinances, including light and noise.

H. Non-Conforming Uses and Structures

1. Existing Zoning Ordinance regulations and State Code provisions allow existing uses and structures that do not meet new zoning requirements to continue indefinitely, but limit the ability for such uses and structures to expand. It is the intent of these new zoning provisions to allow uses and structures that legally existed as of the date of this Marshall Code (10/12/2017) that may not comply with the requirements of the Marshall Code to continue, and to provide zoning flexibility so that such uses may grow and evolve over time. To that end, the following provisions shall apply to all legally established uses and structures existing as of 10/12/2017, notwithstanding requirements set forth elsewhere in this Marshall Code:
 - a. Setbacks for an addition shall either match the setbacks for the existing building or shall be more consistent with the setback and build-to-line requirements of Section 4-1002.D than is the existing building;
 - b. Ground-floor ceiling height for any building addition as required by Section 4-1002.E.1 shall be no less than the ground-floor-ceiling height of the existing building;
 - c. Notwithstanding the footprint limitations of Section 4-1002.E.2(a), building footprint may be increased up to 25% without a Board of Supervisors' Waiver;
 - d. Roof form and window/door openings for an addition may match the existing building rather than fully comply with the requirements of 4-1002.E.2;
 - e. Existing fencing and walls may be maintained, repaired and replaced with like fencing, or with any fencing that complies more with Section 4-1002.E.3 than does the existing fencing;
 - f. Any existing use not listed in Section 4-1002.G shall be considered a Permitted Use, and shall be permitted to expand within the existing occupied lot(s). This expansion may include new structures, provided such new structures comply with the Marshall Code requirements other than Use.
2. To the extent the non-conforming provisions of Article 10 of the Zoning Ordinance provide additional flexibility to existing uses and/or structures, the Article 10 provisions shall also apply.

I. Street Layout Requirements

1. Street Connectivity
 - a. The arrangement of streets in a development shall provide for the alignment and continuation of existing or proposed streets into adjoining lands in those cases in which the adjoining lands are undeveloped and intended for future development or in which the

adjoining lands are developed and include opportunities for those connections. New streets shall be provided and located as generally set forth in the Marshall Service District Plan.

2. Dead-End Streets

- a. New dead-end streets shall not be created (except as a temporary situation), nor shall existing dead-end streets be extended except to create a through-connection. The Zoning Administrator may approve a waiver to allow a dead-end street to accommodate a site specific environmental or historic feature requiring protection and/or preservation. All dead-end streets, whether permanent or temporary, shall provide turn-arounds.

3. Block Size

- a. Streets within a subdivision shall form blocks. No individual block-face shall exceed 800 linear feet nor be less than 200 linear feet.

4. Public Streets Required

- a. All new streets shall be public streets unless the Board of Supervisors approves a waiver allowing the street to be private.

5. Street Design

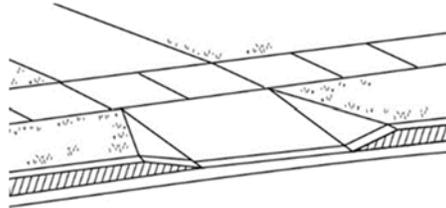
- a. All new streets shall be designed consistent with the requirements set forth in the Fauquier County Design Standards Manual or Fauquier County Zoning Ordinance.

J. Streetscape Requirements

1. Sidewalks

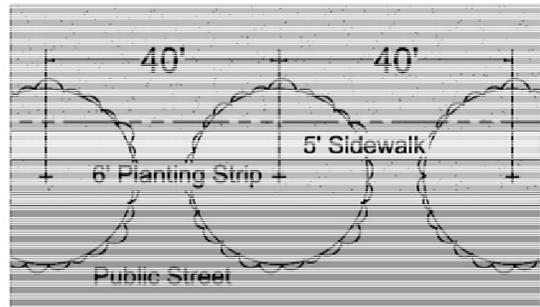
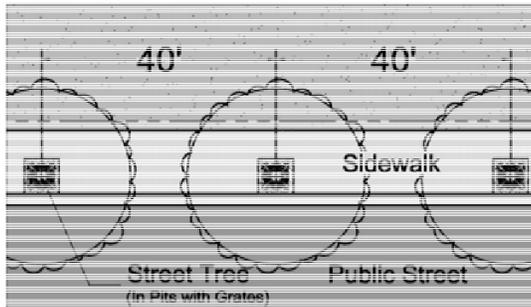
- a. When Required: Sidewalks with planting strips are required to be provided along every street, whether public or private, in conjunction with development of a property, except where sidewalks and planting strips meeting the minimum requirements already exist or are planned and funded for construction through the Marshall Main Street Project. Where new streets are constructed, the sidewalk and planting strip shall be provided along both sides of the street. Where development adjoins existing streets, sidewalks and street trees shall be provided along all of the property's existing street frontages, except where a minimum 5 foot wide sidewalk and street trees already exist. Where development occurs on isolated lots which do not adjoin existing sidewalks, a contribution of \$33 per linear foot may be made to the Marshall Streetscape Fund in lieu of providing the streetscape. The \$33 amount is in 2017 dollars and will be adjusted pursuant to the CIP annually.
- b. Minimum Width: Main Street, Winchester Road, Stockyard Road and Whiting Road: 6 feet minimum; All Other Locations: 5 feet minimum.

- c. Materials: Concrete, stamped concrete, concrete paver or brick. Where connecting to an existing sidewalk, materials shall be matched or an appropriate transition in materials shall be provided.
- d. Driveway Crossings: Sidewalks shall be designed to cross driveways at the same vertical height and with the same materials as the remainder of the sidewalk.



2. Planting Strips and Street Trees

- a. When Required: Required whenever a new sidewalk is built and along existing sidewalks with no street trees.
- b. Location: A minimum of a 6 foot wide planting strip shall be provided between the sidewalk and the street. The sidewalk may be extended into the planting strip to create tree wells or the strip shall be maintained with turf or plant material. Street trees shall be provided within every planting strip.



- c. Tree Spacing: 40 feet on-center or closer; minor adjustments allowed due to technical reasons.
- d. Minimum Caliper: 2 ½ inches at time of planting
- e. Species: Similar species shall be utilized on each street. Trees shall be chosen from 4-1002.J Table 1 The Marshall Street Trees List with Large Street Trees utilized where physically possible. Where development occurs adjoining streets with existing trees that are on the list, existing tree types shall be matched. Larger new developments with new streets shall propose a planting plan as part of the construction plan demonstrating compliance with this requirement.

4-1002.J Table 1 The Marshall Street Trees List	
<u>Large Street Tree</u> Red Maple, <i>Acer rubrum</i> Thornless Honeylocust, <i>Gleditia triacanthos inermis</i> Scarlet Oak, <i>Quercus coccinea</i> Northern Red Oak, <i>Quercus rubra</i>	<u>Small Street Tree</u> Kousa Dogwood, <i>Cornus kousa</i> Crape Myrtle, <i>Lagerstromia indica</i> Paperbark Maple, <i>Acer griseum</i>
<u>Medium Street Tree</u> Hackberry, <i>Celtis occidentalis</i> Yellowwood, <i>Cladrastis kentuckea</i> Sweetgum, <i>Liquidambar styraciflua</i> 'Rotundiloba' Black Gum, <i>Nyssa sylvatica</i>	<u>Under Utility Line Planting</u> Kousa Dogwood, <i>Cornus kousa</i> Crape Myrtle, <i>Lagerstromia indica</i> Star Magnolia, <i>Magnolia stellate</i> Downey Service Berry, <i>Amelanchier arborea</i> Redbud, <i>Cercis Canadensis</i> Flowering Dogwood, <i>Cornus florida</i> Washington Hawthorn, <i>Crataegus Phaenopyrum</i>

3. Street Lighting – Pedestrian

- a. When Required: Within new residential subdivisions of 6 or more lots or development of a parcel one acre or larger. For all other situations in which sidewalks are required to be constructed, lights are not required to be provided. However, a 4 inch conduit shall be placed under the sidewalk at the spacing required below in order to facilitate future installation of street lights.
- b. Location: Within the planting strip along every street with a sidewalk.
- c. Spacing: 40 to 50 feet along Main Street, Winchester Road and Whiting Road. Elsewhere, as necessary to provide continuous lighting along the sidewalk.
- d. Height: 12 feet maximum except additional height allowed along Main Street, Winchester Road and Stockyard Road to match those fixtures and poles installed as part of the Main Street Improvement Project.
- e. Shielding: Lights shall be shielded such that only the sidewalks and any adjoining open spaces are lit.
- f. Design: Fixtures and poles shall have a dark green finish and be generally of traditional design, consistent with the character and quality shown in Dominion Virginia Power’s Decorative Acorn style, subject to approval by Dominion Virginia Power and the Virginia Department of Transportation.



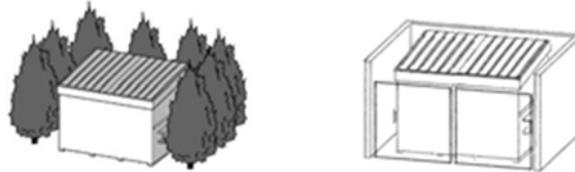
4. Waivers to Streetscape Requirements

- a. The Zoning Administrator may waive the provision of sidewalks on a portion of a street upon a finding that a) unique property constraints create the need for a variation and b) the pedestrian network is not significantly impacted by the loss.
- b. The Zoning Administrator may reduce the sidewalk width requirement to no less than 4 feet where necessary to provide a transition to an existing, narrower, sidewalk; or where only a narrower sidewalk can physically be accommodated on the site.

- c. The Zoning Administrator may approve alternative species from those listed in 4-1002.J Table 1 The Marshall Street Trees List, provided such species are appropriate for the region and are similar in size and character.

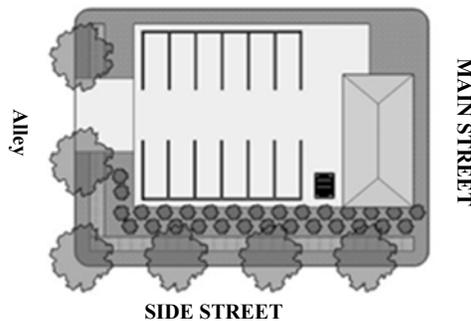
K. Screening Requirements

1. Screening of Structures, Equipment, Outdoor Storage - All mechanical equipment, dumpsters, storage tanks, outside storage and similar items shall be located to the rear of the main building and screened from view from public streets and from adjoining single-family residential properties by walls or landscaping. Appropriate shrubs are listed in 4-1002.K Table 1 Screening Shrubs List below.

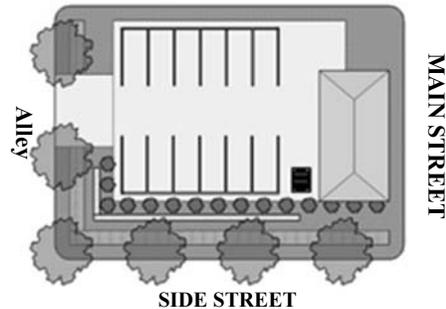


2. Screening of Parking Lots - All new development shall provide screening of parking, loading and vehicular storage areas visible from the public rights-of-way. Screening shall consist of a double row of evergreen shrubs, or a single row plus a masonry wall. If the masonry wall option is provided, the setback from the side street for the parking area may be reduced from 10 feet to 6 feet. Appropriate shrubs are listed in 4-1002.K Table 1 Screening Shrubs List below.

Double Row of Staggered Shrubs



Single Row of Shrubs with Wall



4-1002.K Table 1 Screening Shrubs List	
Burford Holly, <i>Ilex cornuta 'Burfordii'</i> Inkberry Holly, <i>Ilex glabra</i> Viburnum Chesapeake, <i>Viburnum x Chesapeake</i> Glossy Abelia, <i>Abelia x grandiflora</i>	Boxwood, <i>Buxus SP</i> Green Juniper, <i>Juniperus sabina</i> Cherry Laurel, <i>Prunus laurocerasus</i> Wax Myrtle, <i>Morella cerifera</i>

3. Setback and Screening along Interstate 66

- a. Setback: Required setback from the edge of the Route 66 right-of-way:
Residential Units: 200 feet; All other Buildings: 75 feet
- b. Buffer: A buffer shall be provided along Interstate 66. The buffer shall be designed to complement the existing landscape and shall be designed to appear natural. New plantings of trees shall be species

which are native to the region. Pedestrian trails may be incorporated into the Buffer Area.

1. Residential Development – 100 foot wide buffer planted with a minimum of 10 evergreen trees, 6 canopy trees and 8 understory trees per 100 linear feet.
2. All other Development – 75 foot wide buffer planted within a minimum of 5 evergreen trees, 3 canopy trees, 10 understory trees and 30 shrubs (75% must be evergreen) per 100 linear feet.

4. Additional Landscaping Requirements

- a. Parking Lots: One shade tree per every 12 spaces shall be provided in plant beds, islands or strips; there shall be no more than 12 spaces in a row without a minimum 9 feet wide landscape island break. Additionally, for large parking lots with four or more parking bays and more than 36 spaces, a continuous planting strip a minimum of 8 feet wide shall be provided between every other interior row.
- b. Property Line Buffer: Where a property line of a commercial parcel adjoins a property line of a single-family residential lot, a six-foot fence or a landscape screen shall be provided along the property line. Property lines adjoining an existing or planned alley do not require a buffer.

L. Open Space Requirements

In recognition of the existing and desired fabric of the Marshall Code area, open space requirements are significantly less than those for development in other parts of the County. Where required, the spaces are to be deliberately planned to provide a focal point for the block or larger community.

1. Residential Development

- a. Residential Pocket Parks:
 1. Any residential development containing 10 or more new dwelling units, whether on a single lot or with subdivision into individual lots, shall provide a minimum 5 percent of the gross site area in Pocket Parks.
 2. For residential development with less than 10 new dwelling units, a pocket park shall be provided or a contribution of \$1,000 per dwelling unit shall be made to the Marshall Park fund. The \$1,000 amount is in 2017 dollars and will be adjusted pursuant to the CIP annually.
- b. Pocket Park requirements:
 1. All Pocket Parks shall be comprised of usable open space. Areas utilized for stormwater management facilities or areas that are otherwise inaccessible or unusable cannot be utilized to meet the Pocket Park requirement; however, such areas shall nonetheless be constructed and/or maintained in a manner that contributes

visually to creation of an attractive community and that creates opportunities for residents to walk through such areas, where appropriate.

2. The Pocket Park(s) shall be located so that all residents of the development are within 500 feet of a Pocket Park.
3. The Pocket Park(s) shall have frontage on a street.
4. Sidewalks shall connect to the Pocket Park, making it easily accessible to all residents.
5. The Pocket Park(s) shall be landscaped with trees and shrubs to provide shade and shall provide seating, whether formal or informal, for residents. Additional amenities are encouraged, but not required.
6. The Pocket Park(s) shall be a minimum of 2,000 square feet in area and 30 feet in depth and width.



c. Residential Cluster Open Space - Development within the Residential Neighborhood that utilizes the cluster provisions of this Code to provide smaller lots shall place 30 percent of the gross site area into common open space. A portion of this space shall be utilized to meet the pocket park requirement above.

1. Except for the open space within Pocket Parks, cluster open space shall be consolidated into a single connected open space area with no dimension less than 30 feet. The Zoning Administrator may modify this requirement where necessary to assure that key environmental features are captured within the open space.
2. Up to half of the Cluster open space may be in stormwater facilities, provided the stormwater facilities are integrated into the open space and designed to contribute visually to the enjoyment of the open space.
3. Cluster open space shall include active amenities to serve the residents of the development or subdivision.

4. The natural landscape shall be maintained in Cluster open space and supplemented with trees and shrubs as necessary to create shade.

2. Mixed Use and Commercial Development

- a. Commercial and Mixed Use Pocket Plazas - Any mixed use or commercial development on a lot one acre or larger shall provide a minimum 5 percent of the gross site area in Pocket Plazas. Pocket Plaza Requirements:

1. The Pocket Plaza(s) shall have frontage on the street.
2. Sidewalks shall connect to and through the Pocket Plaza(s).



3. The Pocket Plaza(s) shall include at least 50 percent hardscape (stone, pavers, concrete, etc.). Landscaping shall be designed to provide shade. Seating in an amount proportionate to the size of the plaza shall be provided. Lighting shall be incorporated sufficient to assure safety and usability during the time adjoining businesses operate. Each Pocket Plaza shall provide a focal element such as a fountain, piece of art or other element that helps to create a unique character and improve the usability of the space. Seating for adjoining restaurants, cafés and other businesses may be incorporated into a Pocket Plaza.



M. Additional Requirements

Other provisions of the Fauquier County Zoning Ordinance also apply within the Marshall Code Area. To the extent any requirement in the broader Ordinance conflicts with this Marshall Code, the Marshall Code shall prevail. Applicable requirements and limitations are summarized below, referenced by the section found in the Zoning Ordinance:

Sections 2-100 to 2-300: Regulations related to the scope and applicability of the Zoning Ordinance and rules of interpretation of the Zoning Ordinance.

Section 2-400 and Article 10: Regulations governing the development of substandard lots and the expansion and rebuilding of non-conforming uses and structures.

Section 2-502: Limitations on the occupancy of a dwelling unit.

Section 2-508: Limitations on inoperable and junk vehicles stored on a property.

Section 2-510: Regulations on sales from vehicles.

Section 2-512: Limitations on the keeping of animals.

Section 2-600: Regulations regarding the procedures and responsibilities related to common open space and other common facilities, such as stormwater facilities and private alleys.

Section 4-400: Regulations on floodplain. (Note, floodplain is only located within the Marshall Code area on two parcels in the Gateway Neighborhood.)

Article 5: Administrative Permits, Special Permits and Special Exceptions

Article 6: Regulations on accessory uses, including home occupations.

Article 8: Signs

Article 9: Performance Standards for noise (9-700), vibration (9-800), glare (9-900), and outdoor lighting (9-1000).

Article 11: Regulations related to telecommunications facilities.

Article 12: Site Plans

Article 13: Administration, Amendments, Violations and Penalties

Article 14: Boards, Commissions, Committees

Article 15: Ordinance Structure, Interpretation and Definitions

4-1003

Marshall Historic District

A. Purpose and Intent

1. The Marshall Historic District is hereby established.

2. The purpose of the Marshall Historic District (MHD) is to implement the adopted Marshall Service District Plan's goal of preserving historic buildings through the creation of a local historic district with incentives for preservation and rehabilitation, and to assure that new buildings in the district are developed in a manner that is compatible with the existing historic structures. More specifically, these provisions seek:
 - a. To identify and preserve buildings, structures, and areas with special historical, cultural, architectural and archaeological significance that maintain a collective community character and quality and serve as important visible reminders of the heritage of Marshall, Fauquier County, and the Commonwealth of Virginia;
 - b. To maintain and improve property values by providing incentives for the retention and rehabilitation of older buildings in a safe and healthy manner, and by encouraging desirable uses, forms, and materials for infill development that will lead to the continuance, revitalization, and evolution of Marshall's historic and cultural resources.
 - c. To assure that new buildings, additions and related features will be in harmony with the scale and character of the existing historic buildings, structures, and areas.

B. Applicability

1. The MHD is an overlay district and applies in addition to other provisions of the Zoning Ordinance to all properties located within the boundary of the MHD.
2. Within the MHD, a Certificate of Appropriateness (COA) must be approved by the Zoning Administrator prior to undertaking any of the regulated activities listed below with the exception of Temporary Uses and accessory structures, less than 256 square feet, associated with the Temporary Use. The COAs shall be issued pursuant to the standards set forth in this Ordinance. Regulated activities include:
 - a. Construction of a new building or structure, except for accessory buildings 256 square feet or less in size and structures that are not visible from the adjoining public street or adjoining public open space.
 - b. Additions to an existing building if the addition is visible from the adjoining public street or adjoining public open space.
 - c. Exterior alterations to contributing structures except for alterations that are not visible from the adjoining public street or adjoining public open space and any alteration listed below:
 1. The replacement of windows or doors where the size of the window and door openings is not changing;
 2. Painting;

3. Repairs utilizing visually similar materials to those being repaired;
 4. Replacements of siding and trim utilizing visually similar materials to those being replaced;
 5. Reroofing;
 6. Replacement or installation of HVAC units, antennas, personal satellite dishes, meters, cable/utility boxes or exterior lighting fixtures;
 7. Replacement or installation of fences, patio pavers and walkways;
 8. Signage;
 9. Any alterations or additions to existing buildings, which are approved, through adequate documentation from the Virginia Department of Historic Resources (DHR), for receiving historic tax credits under the Federal or State rehabilitation tax credit program.
- d. Demolition or relocation of any Contributing Structure, unless such demolition or relocation is not visible from an adjoining public street or adjoining public open space.

C. Incentives

1. Automatic Incentives - Automatic incentives available to any parcel where development includes retention and reuse of a Contributing Structure.
 - a. Notwithstanding the parking requirements set forth in Section 4-1002.F.1, the parking requirement for a retained and reused Contributing Structure shall be 1 space per dwelling unit and/or 33% of the commercial requirements.
 - b. Notwithstanding the parking requirements set forth in Section 4-1002.F.1, the parking requirement for any new structure(s) on a lot with a Contributing Structure or additions to the Contributing Structure shall be 66% of the parking requirement set forth in Section 4-1002.F.1 for the use.
 - c. Certain uses in the use tables for each Neighborhood District are allowed by-right only in retained historic structures as an incentive. Such uses are shown as "PH" on the use charts for each neighborhood.
2. Zoning Administrator Approved Incentives - The Zoning Administrator shall have the authority to modify Lot Width, Lot Shape, Setback, Lot Access and Parking Location on Lot requirements pursuant to the procedures set forth in Section 15.2-2286 (4) of the *Code of Virginia*, in conjunction with approval of a COA for the proposed development.

D. Application Processing, Approval and Appeal Procedures

1. COA Application Procedures

- a. Applications shall be submitted by a property owner, contract purchaser, or lessee of the property, or by the authorized agent of any such person.
- b. The applicant shall submit a complete application to the Department of Community Development that includes the following information:
 1. A written description of proposed exterior changes;
 2. A general sketch plan of the property including: the location of existing structures; property and setback lines; and any proposed new construction, additions or deletions, parking areas, and fences;
 3. The total gross floor area of the existing building and of any proposed additions;
 4. Elevation drawings depicting existing conditions and proposed exterior changes;
 5. Photographs of the subject property in context of the buildings on contiguous properties;
 6. In the case of a demolition request where structural integrity is at issue, the applicant shall provide a structural evaluation and cost estimates for rehabilitation, prepared by a professional engineer. The Zoning Administrator may waive the requirement for a structural evaluation and cost estimates in the case of an emergency, or if the building is the primary residence of the applicant.

2. Approval or Denial of Applications by the Zoning Administrator

- a. The applicant shall post notice of the application on the land and building on placards provided by the Department of Community Development within one week of an application submission. Said notice shall be posted at reasonable intervals along every street abutting the property. The placards shall identify the type of application (new building, addition, alteration or demolition), how to find additional information about the application, and how to comment on the application. The posters shall remain on the property for no less than two weeks. The applicant shall complete an affidavit that posting in accordance with these provisions was done. Public comments shall be submitted to the Zoning Administrator during the two week period in which the posters are displayed.
- b. The Zoning Administrator shall consult with the Historic Preservation Planner regarding compliance with the standards in these provisions. The Zoning Administrator and Historic Preservation Planner shall consider any comments received from the public only to the extent the

comments relate to compliance with the standards in these provisions. The decision to approve, approve with conditions, or deny the COA shall be made no more than 45 days after submission of the application.

- c. Upon Zoning Administrator approval of an application, the approved certificate shall be issued with a list of conditions, if applicable. The applicant and any person who submitted a written objection to the application shall be provided with notice of the approval. Upon denial of an application, the applicant shall be provided written notice of the decision, including a statement of the reasons for the denial.

3. Appeals of Zoning Administrator Decisions

- a. A decision of the Zoning Administrator may be appealed to the Board of Supervisors by the applicant or any other aggrieved person by filing a written notice of appeal within ten days from the date of decision. An appellant shall set forth, in writing, the grounds for an appeal, including the procedure(s) or standard(s) alleged to have been violated or misapplied by the Zoning Administrator, and/or any additional information, factors or opinions he or she deems relevant to the application. The applicant, or his agent, and any aggrieved person, shall be given an opportunity to be heard on the appeal.
- b. In any appeal, the Board of Supervisors shall consider the Zoning Administrator decision, the written appeal, the criteria set forth in this Ordinance, as applicable, and any other information, factors, or opinions it deems relevant to the application.
- c. A final decision of the Board of Supervisors may be appealed by the owner of the subject property to the Circuit Court of Fauquier County, by filing with the court a petition setting forth the alleged illegality of the action taken. Such petition must be filed with the Circuit Court within thirty days after the Board of Supervisors' final decision. The filing of the petition shall stay the Board's decision pending the outcome of the appeal; except that the filing of the petition shall not stay a decision of the Board of Supervisors denying permission to demolish a building or structure.
- d. Any appeal which may be taken to the Circuit Court from a decision of the Board of Supervisors to deny a permit for the demolition of a building or structure shall not affect the right of the property owner to make the bona fide offer to sell as described below.
- e. In addition to the right of appeal set forth above, the owner of a building or structure, the demolition of which has been the subject of an application appealed to the Board of Supervisors (BOS), shall, as a matter of right, be entitled to demolish such building or structure if all of the following conditions have been met:
 1. The owner has appealed to the Board of Supervisors for permission to demolish the building or structure, and the BOS has denied such permission;

2. The owner has, for the applicable sale period set forth below, and at a price reasonably related to the fair market value of the subject property, made a bona fide offer to the locality 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 building or structure and the land pertaining thereto; and
3. No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of such contributing structure, and the land pertaining thereto, prior to the expiration of the applicable sale period.
4. If all of the foregoing conditions are not met within the applicable sale period, then the Board of Supervisors' decision denying a permit shall stand, unless and until that decision is overturned by the Circuit Court. However, following expiration of the applicable sale period, a property owner may renew his request to the Board of Supervisors to approve the demolition of the contributing structure.
5. The time in which a property owner may take advantage of the rights afforded by subparagraph (4), above (the applicable "sale period") shall be as follows:
 - i. Three (3) months, when the offering price is less than twenty-five thousand dollars (\$25,000.00).
 - ii. Four (4) months when the offering price is equal to or greater than twenty-five thousand dollars (\$25,000.00) but less than forty thousand dollars (\$40,000.00).
 - iii. Five (5) months when the offering price is equal to or is greater than forty thousand dollars (\$40,000.00) but less than fifty-five thousand dollars (\$55,000.00).
 - iv. Six (6) months when the offering price is equal to or greater than fifty-five thousand dollars (\$55,000.00) but less than seventy-five thousand dollars (\$75,000.00).
 - v. Seven (7) months when the offering price is equal to or is greater than seventy-five thousand dollars (\$75,000.00) but less than ninety thousand dollars (\$90,000.00).
 - vi. Twelve (12) months when the offering price is equal to or greater than ninety thousand dollars (\$90,000.00).

E. Validity of Certificates of Appropriateness

1. Once issued, a Certificate of Appropriateness shall expire and become void one (1) year after issuance, unless within that time period one of the following has occurred:

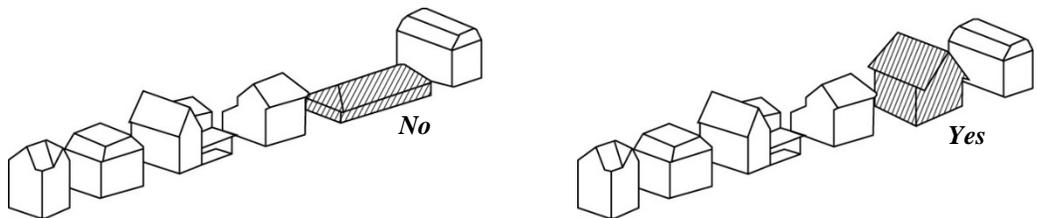
- a. Issuance of a building permit for construction of the improvements or activities which are the subject of the certificate, or in cases where no building permit is required, construction of the improvements or the activities which are the subject of the certificate has substantially commenced.
 - b. Diligent pursuit of required county approvals for construction, to include site plan, land disturbing or other plans and permits has occurred and continues.
 - c. For reasonable cause, the director of Community Development may extend the validity of any such certificate for a period not to exceed one (1) year.
2. The issuance of a Certificate of Appropriateness shall not, in and of itself, authorize any construction, reconstruction, alteration, repair, demolition, or other improvements or activities requiring a building permit. Where a building permit is required, no activity authorized by a Certificate of Appropriateness shall be lawful unless conducted in accordance with the required building permit and all applicable building code requirements.

F. Standards for Approval of Certificates of Appropriateness

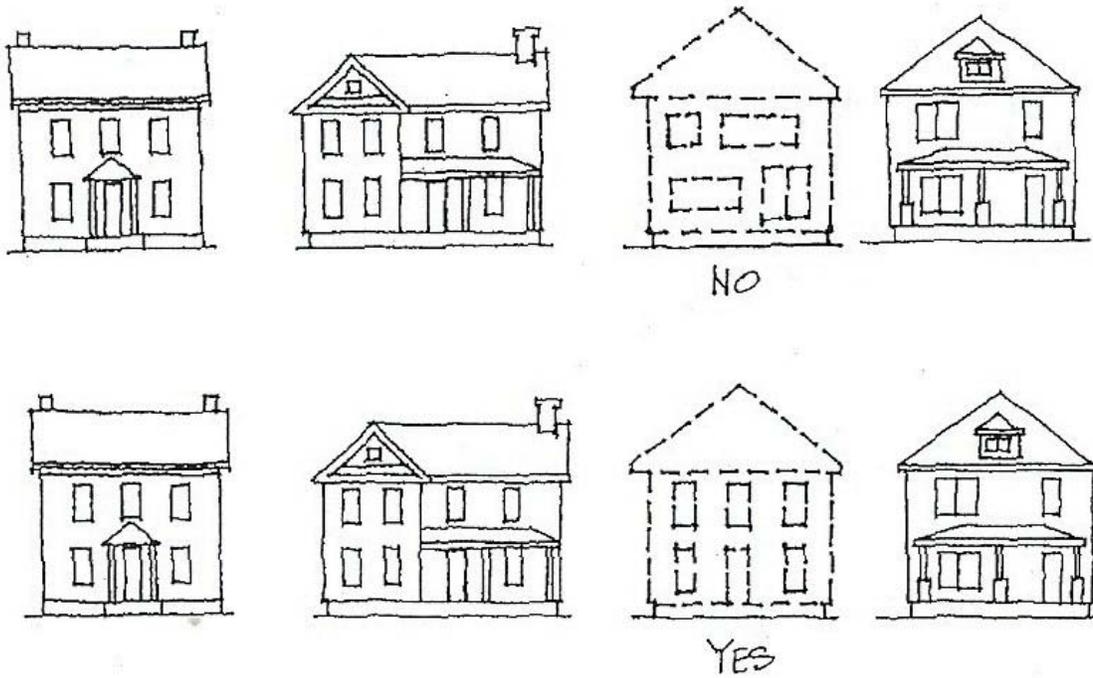
The Zoning Administrator shall approve an application for a Certificate of Appropriateness (COA) if he/she finds that the proposal meets the MHD standards set forth in this Section.

1. Standards for New Structures - The Zoning Administrator shall approve a Certificate of Appropriateness application for a new structure if the following standards are met:

- a. New buildings shall relate in scale, massing, height, and proportion to the historic buildings in Marshall.



- b. Window and door openings in new buildings shall be similar in size, shape, type, proportion, and placement to those in surrounding historic buildings to create a cohesive street rhythm.

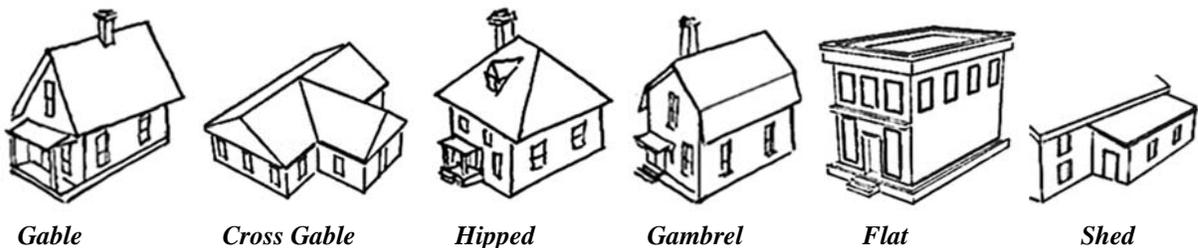


- c. New buildings shall use common roof types and pitches found on historic buildings in the wider district. Most roofs on residential buildings in the District are traditional gable, hipped, and gambrel roofs. Flat roofs with parapet walls are sometimes seen on multi-story commercial buildings. Shed roofs are common on porches and additions. Cross gables on façades are present in Marshall, specifically on I-houses, a traditional house type in the District.



A cross gable on the façade of an I-house and shed roof addition.

Common Roof Types in the Marshall Historic District



Gable

Cross Gable

Hipped

Gambrel

Flat

Shed

- d. New buildings shall incorporate architectural elements (such as overhanging eaves, exposed rafters, bargeboards, moldings, trims, brackets, shingles, pediments, eave returns, columns, etc.) that are similar to those found on historic buildings in the District.



Projected Eave

Projected Eave with Exposed Rafters

Bracket in Eave

Decorative Molding in Frieze

Bargeboard in Gable

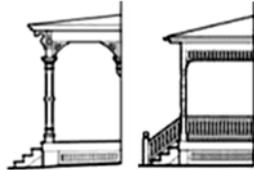
Wood Shingles in Gable

Pedimented Gable

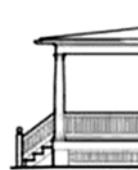
Common Porch and Portico Details in the Marshall Historic District



Federal Style



Queen Anne Style



Colonial Revival Style



Craftsman Style



The new commercial building shown above was constructed using architectural features reminiscent of a late 19th century/early 20th century commercial building with the use of a flat roof, parapet, a recessed entrance on the façade, transom windows, long display windows, and bulkhead along the base.



The recently-constructed house pictured above was built using some architectural features characteristic of the Craftsmen Style, with the use of overhanging eaves, brackets, full porch with wide porch supports, 3/1 pane double hung sash windows, and a large dormer window on the façade.

- e. Porches or recessed entries on new buildings shall be compatible in detail with those in historic Marshall. New porches should be constructed with a depth to make them functional, typically 6 feet or more.
- f. If used, dormers shall fit the scale of the roof.
- g. Materials used for new buildings shall be consistent with the materials used in surrounding historic buildings. The predominant building materials in the Marshall Historic District are: wood (especially for framing, siding, windows, trim and decorative details), brick, stone, concrete and stucco. Modern alternative materials, such as cementitious siding or plank, vinyl siding (if at least 0.044" thickness

and beaded or curved for rigidity), and composite based trims and windows, are appropriate, but shall appear similar to historic materials.

- h. New garages and other outbuildings shall complement the character and scale of the primary building on the property and other accessory buildings in the neighborhood, and should incorporate similar architectural elements or building materials. Construction of detached garages is encouraged, but not required.



The newly-constructed garages, shed, and studio pictured above reflect the character and scale of older buildings in the surrounding neighborhoods.

- 2. Standards for Additions and Alterations to Existing Buildings - The Zoning Administrator shall approve a Certificate of Appropriateness application for additions and alterations to existing buildings if the following standards are met:

- a. A new addition shall be constructed in proportion to the height, scale, plane, side length, roof form and architectural details of the primary building. For example, the addition of a low, horizontal wing to a tall, vertical building is discouraged.



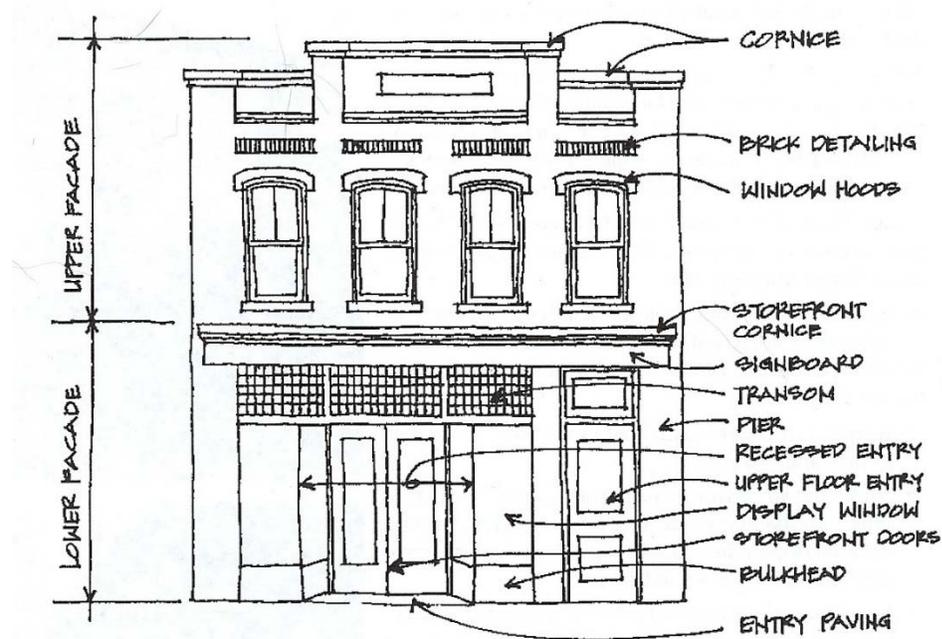
An addition not constructed in proportion to the height, scale, plane, and roof form of an existing building can have a detrimental impact to the property, streetscape, and district as a whole.



A one-story addition was recently added to the rear of the building. It was constructed in proportion to the height, scale, plan, side length, and roof form of the house.

- b. Alterations to Contributing Structures shall seek to retain the historic character of the building so that the building is substantially recognizable as the original structure.

- c. Significant changes to the roof forms of Contributing Structures shall be avoided.
- d. New window or door openings shall be avoided on the façades of Contributing Structures. Where window and door openings are added or altered on other sides of the building, they shall be designed in a manner consistent with traditional elements of contributing structures in the historic district.
- e. Significant historic storefronts are encouraged to be retained. Where replaced, the storefront shall be designed to incorporate traditional elements of small-town historic commercial buildings.



Features of a Late 19th Century-Early 20th Century Commercial Storefront

- f. Exterior elements and details, such as cornices, brackets, porches, porticos, columns, chimneys, window architraves, and doorway pediments, shall be retained or replaced with a new detail comparable in terms of size and style with the original feature.
 - g. Retention and repair of original building materials is desirable, but not required. If replaced, the new material shall visually match the material being replaced. Modern, alternative materials such as cementitious siding or plank, vinyl siding (if at least 0.044" thickness and beaded or curved for rigidity), and composite based trims and windows, are acceptable but should appear similar to historic materials.
3. Standards for Demolition - The following standards shall be utilized by the Zoning Administrator in determining whether to approve a Certificate of Appropriateness application involving a request for demolition. The Zoning Administrator shall weigh the public value of keeping the building (letters a

- f below) against the cost to the owner of keeping the building (letter g) and the public value remaining or created after demolition of the building (letters h, i and j).

- a. The age of the historic structure;
 - b. Whether the property is listed in the National Register of Historic Places or the Virginia Landmarks Register;
 - c. Whether, and to what extent, the building or structure is associated with an important historic person, architect or master craftsman, or historic event;
 - d. Whether the building or structure, or any of its features, represent a rare or first or last remaining architectural example within the District;
 - e. The degree to which distinguishing characteristics, qualities, features or materials remain;
 - f. Whether, and to what extent, a contributing structure is linked, historically or aesthetically, to other buildings or structures within the District and whether the proposed demolition would adversely affect the character of the District;
 - g. The overall condition and structural integrity of the building or structure, as indicated by a study prepared by a qualified professional engineer and provided by the applicant to the Zoning Administrator;
 - h. The plan for the continued use of the property after demolition, including a timeline for project completion, provided by the applicant and submitted to the Zoning Administrator, and whether the proposed replacement building design respects and reflects the character of Marshall;
 - i. Whether, and to what extent, the applicant proposes to preserve portions, features or materials that are significant to the property's historic, architectural or cultural value;
 - j. The public good derived from demolishing the building relative to the public good derived from preserving it.
4. Standards for Relocation - The following standards shall be utilized by the Zoning Administrator in determining whether to approve a Certificate of Appropriateness application involving a request for relocation:
- a. Relocation is a "last resort" alternative to demolition;
 - b. Whether or not the building is being relocated to another location within the Marshall Service District;
 - c. Whether the relocated building is being positioned on the new site in such a manner so that its orientation to the street, setback,

and lot coverage are compatible with the existing structures on the relocation block. The shape, mass, and scale of the building to be moved should conform to the existing buildings on the relocation block.

4-1004

Definitions

The definitions set forth in this section apply only to the properties within the boundary of the Marshall Code. If these definitions conflict with the definitions in Article 15 in any way, these definitions shall prevail. Definitions in Article 15 shall apply only when a definition is not provided herein.

ACCESSORY DWELLING UNIT: A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area and full bathroom facilities, whether within or attached to a single-family dwelling or freestanding on the same lot as the single-family dwelling.

ADDITION: The enlargement of a structure accomplished by appending a new improvement.

AGRICULTURAL SUPPLIER: A business entity that warehouses, merchandises, sells, services and delivers agriculturally related inputs required by farmers, contractors and homeowners. These products may include, but are not limited to, feed; seed; fertilizer; crop protectants; fencing; wood and metal protection products; stored bulk products such as mulch, fertilizer, lime or propane; and other supplies as needed for agricultural production, such as livestock feeding, handling and watering equipment. Materials are stored both inside and outside, and a fleet of trucks and equipment are maintained as part of the business as necessary to service customers.

ALLEY: A strip of land, whether public or private, intended for vehicular traffic designed to give access to the side or rear of properties whose principal frontage is on a street. An alley is not considered a street.

ARCHITECTURAL FEATURES: Exterior building elements intended to provide ornamentation to the building massing, including, but not limited to: eaves, cornices, bay windows, window and door surrounds, light fixtures, canopies, and balconies.

ARTISAN WORKSHOP AND STUDIO: An establishment for the preparation, display and sale of crafted artwork, jewelry, furniture, sculpture, pottery, leather-craft, hand-woven articles, photographs, paintings and other articles of artistic quality or handmade workmanship.

ASSISTED LIVING FACILITY: A non-medical residential facility licensed by the Virginia Department of Social Services that provides 24 hour non-medical care and assistance to adults who are aged, infirmed or disabled.

AUCTION, INDOOR: A type of sales facility where individual items or lots of items are individually offered by sale to an audience of prospective purchasers and are sold to the highest bidder. For purposes of this Ordinance, auctions shall occur entirely indoors and shall not include auctions selling wholesale lots, or selling vehicles or heavy equipment.

AUTO REPAIR SHOP: A building or land utilized for the repair and maintenance of automobiles, motorcycles, trailers or similar vehicles but not including heavy trucks or equipment. Auto Repair Shop shall include body work and painting. Automated Car

Washes, Towing & Impoundment are authorized accessory uses at an Auto Repair Shop.

AVERAGE FINISHED GRADE: A reference plane representing the average elevation of finished ground level adjoining the building or structure at all exterior walls.

BANK: Any building or portion of building for the custody, loan, or exchange of money; for the transmission of credit and for facilitating the transmission of funds. Does not include check-cashing stores.

BED & BREAKFAST: The use of a residential dwelling for commercial lodging purposes, with up to four bedrooms used for the purpose of lodging transient guests and in which meals may be prepared for them, provided that no meals may be sold to persons other than such guests.

BLOCK: Land surrounded on all sides by streets or a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to the continuity of development.

BLOCK FACE: Perimeter edge of a block.

BLOCK LENGTH: The distance as measured along rear property lines between intersecting streets.

BUILD-TO-LINE: A line established a certain distance from the front property line along which the front of the building shall be built.

BUILDING: A structure consisting of one or more foundations, floors, walls and roofs that surround an interior space, and may include exterior appurtenant structures such as porches and decks and used or intended to be used for supporting or sheltering any use or occupancy.

BUILDING, ATTACHED: A building that is physically connected to another building by a shared party wall or other structural features.

BUILDING, DETACHED: A building that is not physically connected to another building by a shared party wall or other structural feature.

BUILDING ENTRANCE: A point of pedestrian ingress and egress to a building.

BUILDING FOOTPRINT: See Footprint.

BUILDING FRONTAGE: The length of the front façade of the primary building on a property, not to include appurtenances such as canopies, porticos, porches or similar building features. The front façade shall be considered the face of the building where the main building entrances are located. For buildings with corner entrances, the frontage shall be calculated on the greater of the two adjacent building façades.

BUSINESS SERVICES: Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing, consulting services, printing, financial services, personnel and employment services.

CEILING HEIGHT, GROUND FLOOR: Height from finished floor to finished ceiling of primary rooms on the ground floor, not including secondary rooms such as bathrooms, closets, utility rooms and storage spaces.

COMMERCIAL FRONTAGE: Building frontage occupied by non-residential uses except for a lobby to upper story residential uses.

CONTRIBUTING HISTORIC STRUCTURE: A structure within the boundary of the Marshall Historic that (1) is at least fifty (50) years of age from the date of the adoption of this section and (2) is associated with an event or events that have made a significant contribution to the broad patterns of Marshall history; or is associated with the lives of persons significant to the history of Marshall; or embodies distinctive features of a type, period, or method of construction relating to the cultural or artistic heritage of Marshall or represents the work of a master craftsman or renowned architect; and (3) retains sufficient integrity of location, setting, materials, workmanship, design, feeling, or association. Note: a contributing structure does not have to meet all seven aspects of integrity but must meet at least three.

COTTAGE INDUSTRY: A small, low-intensity manufacturing or processing business employing no more than twelve workers engaged in a business located outside of an industrial area that operates without altering the character of the neighborhood, generating low traffic volumes and no noise, smoke, odor, dust, glare or vibration detectable off the property.

DAY CARE: A facility, including a private residence, where more than 12 children or adults are offered care and supervision, but not schooling, for fewer than 18 hours per day. Day-Care does not include Family Day Home.

DEAD-END STREET: A Street, one end of which is closed and has an appropriate turnaround for a safe and convenient reverse of traffic movement.

DEMOLITION: The razing or destruction, whether entirely or significant part, of the exterior of a building, structure or site.

DEVELOPMENT: Any man-made change to real estate including but not limited to: construction of buildings or other structures; subdivision of land; the placement of paving, utilities or other improvements on the property; filling, grading and excavation; or change in use of the property.

DRIVE-THROUGH: Any structure or configuration on a business property that allows a customer to access the goods or services offered by the business while remaining in a vehicle.

DRIVEWAY: A vehicular lane within a lot, or shared between two lots, usually leading to a garage, other parking or loading area.

DWELLING: A building or portion thereof, designed or used for residential occupancy for a one complete independent household unit, with permanent provisions for living, sleeping, eating, cooking and sanitation. The term dwelling shall not be construed to mean a hotel or inn, medical care facility or other accommodation used for more or less transient occupancy.

DWELLING, MULTI-FAMILY: A residential building containing three or more separate dwelling units located on a single lot or parcel of ground.

DWELLING, SINGLE-FAMILY ATTACHED: A group of two or more Dwellings which are joined to one another by a common party wall, where each unit has its own outside entrance, whether or not such a group is located on a single parcel of ground or on adjoining individual lots. The use includes townhouses, duplexes, triplexes and quadraplexes, but only when attached by party-walls rather than floor-ceiling.

DWELLING, SINGLE-FAMILY DETACHED: A residential building containing one Dwelling and occupied by no more than one household, except that an Accessory Dwelling, where authorized, may be located within a Single-Family Detached Dwelling, where permitted.

EATING PLACE: A business preparing and selling food and/or beverages to consumers for on- or off-premise consumption. Accessory sale of prepared foods from a General Retail establishment is not included and shall be considered part of the retail use.

EVENT: A non-routine planned occasion or activity lasting no more than 3 days that is open to the public. Event shall not include sporting activities other than bicycle and people races.

EXTERIOR ALTERATIONS: Any change to the exterior surfaces of a structure or part thereof to exclude cosmetic changes such as painting.

FAÇADE: The vertical surface of a building.

FAMILY DAY HOME: A child day program as defined in Section 63.2-100 of the Code of Virginia offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, where at least one child receives care for compensation.

FARM EQUIPMENT SALES: An establishment that sells, rents and services farm equipment designed specifically for agricultural purposes, whether for use on a farm or in the transportation of farm products, but shall not include buildings. In no case shall non-farm vehicles or equipment be sold, leased or serviced.

FENCE: An enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including hedges, shrubs, trees or other natural areas.

FENCING, OPEN: A fence in which openings between the materials of which the fence is constructed represent at least 50 percent of the total surface of the fence.

FLOOR AREA: The sum of the total horizontal areas of each floor of a building, measured from the interior faces of the exterior walls or from the centerline of the exterior walls separating two buildings. Attics and basements shall be counted if they contain structural head-room of at least 6 feet 6 inches.

FOOTPRINT: The total square footage contained within the outline of the area of ground covered by a building or structure.

FORM, BUILDING: The overall shape and dimensions of a building.

FUNERAL HOME: A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial, (b) the performance of autopsies and other surgical procedures, the storage of caskets, funeral urns and other related funeral supplies and the storage of funeral vehicles. A Funeral Home may include cremation facilities if approved by Special Permit.

GARAGE: A structure, or part thereof, used or intended to be used for the parking and storage of personal motor vehicles owned by those living or working on-site.

GAS STATION: A facility used for the retail sale of automobile fuel, oil, and accessories. A Gas Station shall not include facilities for Tractor Trailers.

GOVERNMENT FACILITIES, COUNTY: Facilities built or leased by the County for use to provide government services, but not to include Sanitary Landfill or Transfer Facilities.

GROUND FLOOR: The floor of a building located nearest to the level of the ground around the building.

GROUND FLOOR CEILING HEIGHT: Height from finished floor to finished ceiling of primary rooms on the ground floor, not including secondary rooms such as bathrooms, closets, utility rooms and storage spaces.

HEIGHT: The vertical distance between the Average Finished Grade and the highest point of the roof for flat roofs, and to the average height between eaves and the ridge for gable, hip and gambrel roofs.

HOME OCCUPATION: Business activities occurring within a residence or its accessory structures, as limited by Article 6 of the Zoning Ordinance.

HOTEL: A lodging establishment of more than 20 rooms in a building or group of buildings offering transient lodging accommodations on a daily rate to the general public. Additional services may include a restaurant, meeting rooms and other conference facilities, and recreational facilities.

INDOOR RECREATION, INCLUDING GYM, AND SPORTS/ACTIVITY CENTER: An indoor facility, with or without seating for spectators, that provides accommodations for sports or recreational activities, including but not limited to amusement arcades, billiard/pool halls, bowling alleys, basketball, batting cages, fitness centers, gymnastics, handball, health clubs, ice hockey, paintball, racquetball, soccer, swimming pool, tennis, trampoline and volleyball. Such facilities may include accessory facilities and uses including but not limited to coaching/teaching, day care facilities, eating establishments, events, meetings and retail sales. A firing range shall not be allowed as part of an indoor recreation facility.

INDOOR TECHNICAL SCHOOLS: Any school other than a primary, secondary or college of general education, to include but not limited to dance schools, business schools, trade schools, art schools and similar facilities.

INN: A building or group of buildings 20 or fewer rooms providing overnight accommodations and breakfast to transient guests.

LANDSCAPING: Flowers, shrubs, trees or other decorative material of natural origin.

LEGALLY EXISTING: Existing prior to the adoption of the County’s first zoning ordinance or established with approval of all required County plan and permit approvals.

LICENSED BUILDING INDUSTRY PROFESSIONAL: A builder, contractor, architect or real estate agent/broker holding a professional license from the Commonwealth of Virginia.

LOT: A parcel of land legally recorded as a lot of record in the County’s land records. In cases where a legally recorded lot was split by a public street prior to the adoption of the County’s first subdivision ordinance on August 3, 1951, each separate portion of such parcel shall be considered a lot.

LOT AREA: The total square footage or acreage of horizontal area included within the lot lines of a lot.

LOT LINE: The legal perimeter and geometry of a parcel of property demarcating one property from another.

LOT WIDTH: The distance between side lot lines, measured where the lot abuts the street. For lots fronted by multiple streets, the Lot Width shall be measured along the main street.

MASSING: The overall shape or arrangement of the bulk or volume of buildings and structures.

MEDICAL CARE FACILITY: A facility licensed by the Virginia Department of Health in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known by varying nomenclature or designation such as hospitals, convalescent homes, nursing homes, intermediate care facilities and extended care facilities.

MEDICAL SERVICES: A facility other than a hospital where medical, mental health, surgical and other personal health services are provided on an outpatient basis. Examples of these uses include: medical offices, outpatient care facilities, urgent care facilities, and other allied health services. These facilities may also include incidental medical laboratories. Offices that accommodate counseling services by other than medical doctors or psychiatrists are included under “Office – Business/Professional.” Use shall not include Sex Offender Treatment facilities.

MEETING FACILITIES: A facility for public or private meetings, including: community centers, civic and private auditoriums, places of worship, meeting halls for clubs and other membership organizations, event space, etc. Also includes functionally related internal facilities such as kitchens, multi-purpose rooms, and storage. Does not include conference and meeting rooms accessory and incidental to another primary use, and which are typically used only by on-site employees and clients, and occupy less floor area on the site than the offices they support. Does not include: cinemas, performing arts theaters, indoor commercial sports assembly or other commercial entertainment facilities.

MUSEUM: Any use the primary purpose of which is the exhibition of objects of lasting interest or value; such use may include the sale of items related to the objects exhibited

in the facility (such as copies, prints or books dealing with objects of the types exhibited).

OFFICE – BUSINESS/PROFESSIONAL/CONTRACTOR: A room, studio, suite or building in which a person transacts his business or carries on his stated occupation. For the purpose of this Ordinance, an office shall not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair or storage of materials, goods and products; or the sale and delivery of materials, goods and products which are physically located on the premises. Office shall not include Sex Offender Treatment.

OFF-SITE: Any area outside the boundary of a lot.

OFF-STREET PARKING: Any space, whether or not required by the provisions of this Ordinance, specifically allotted to the parking of motor vehicles as an accessory use. For the purpose of this Ordinance, such space shall not be located in a dedicated right-of-way, a travel lane, a service drive, nor any easement for public ingress and egress.

ON-SITE: The area within the boundary of a lot.

OPEN SPACE: An accessible and usable area of land retained for active or passive recreation areas and developed for open space use as required by the Marshall Code.

PARAPET: A low wall along the edge of a roof or the portion of a wall that extends above the roof line.

PARKING DRIVEWAY WIDTH: The horizontal measurement, measured perpendicular to the direction of travel, of an access driveway to a parking area.

PARKING SPACE: A designated off-street area which is available and usable for the parking of one motor vehicle, not to include spaces where vehicles are stored.

PERMITTED USE: Uses that are allowed by right.

PET GROOMING: The provision of hygienic care and cleaning of a pet, or the physical appearance of the pet is enhanced. Pet Grooming shall not include boarding or breeding.

PLANTING STRIPS: A landscaped or grassy area located between a street and a sidewalk.

PERSONAL SERVICES: Establishments that provide non-medical services to individuals as a primary use. Examples of these uses include: barber and beauty shops, clothing rental, dry cleaning pick-up stores with limited equipment, home electronics and small appliance repair, laundromats (self-service laundries), locksmiths, massage (licensed, therapeutic, non-sexual), nail salons, pet grooming with no boarding, shoe repair shops, tailors, tanning salons. These uses may also include accessory retail sales of products related to the services provided.

PORCH: A covered shelter projecting in front of the entrance of a building.

PRE-SCHOOL: A facility, including a private residence, where children who have not reached the age for enrollment in kindergarten are cared for or schooled.

PUBLIC OR PRIVATE SCHOOL: See School, Public or Private.

PUBLIC PARKING: An area or structure open to the general public for parking, either with or without a fee.

RECREATION, ACTIVE: Recreational pursuits usually performed with others and often requiring equipment which required physical alteration to the area in which they are performed. Such areas are intensively used, and include but are not limited to playgrounds, sport courts, baseball/softball and other field sports, and swimming pools.

RESIDENTIAL: Premises used primarily for human habitation.

RESIDENTIAL CARE FACILITY: A non-medical facility licensed or supervised by an appropriate State or Federal agency to provide resident services and 24 hour supervision. Such a facility is headed by an agency-approved staff and functions as a single housekeeping unit.

RETAIL SALES: The sales of goods, merchandise and commodities in small quantities, not in bulk, for use or consumption by the immediate purchaser. Retail sales shall not include the sales of vehicles or trailers, nor shall it include the sale of petroleum products.

RIGHT-OF-WAY (R.O.W.): Land, property, or an interest therein, dedicated to transportation purposes.

RIGHT-OF-WAY, PUBLIC: A right-of-way dedicated to use by the general public.

SCHOOL, PUBLIC OR PRIVATE: Academic schools to include elementary/primary/secondary/advanced education as well as Colleges and Universities. Business Schools are considered Technical Schools.

SETBACK: The mandatory clear distance between a lot line and a structure.

SHARED PARKING: Any parking spaces assigned to more than one user, where different persons utilizing the spaces are unlikely to need the spaces at the same time of day.

SHORT-TERM RENTAL: Any dwelling or portion thereof that is available for use or is used for accommodations or lodgings of guests paying a fee or other compensation for a period of less than 30 consecutive days.

SIDEWALK: A paved right-of-way intended exclusively for pedestrian use and often installed between a street and lot frontages.

SITE PLAN: A required submission, prepared and approved in accordance with the provisions of Article 12 of the Ordinance, which is a detailed engineering drawing of the proposed improvements to be constructed in the development of a given lot.

STORAGE AREA: The storage of any goods, vehicles, equipment or other materials either within or outside of a building. Storage Area shall not include parking lots or display areas for goods being sold from the property.

STOREFRONT: The portion of a frontage composed of the display window and/or entrance and its components, including windows, doors, transoms and sills that are inserted into various frontage types, such as a shopfront or gallery, to accommodate retail uses.

STORY: An above-grade habitable floor level within a building.

STREET LINE: The dividing line between a street and a lot.

STREET, PRIVATE: A local street that is not a component of the State system, including any easement established to provide required access to a lot.

STREET, PUBLIC: A platted Street dedicated for the use of the general public and maintained by the Virginia Department of Transportation. A dedicated street that has not been improved shall also be considered a Public Street.

TEMPORARY EVENT: A non-routine planned occasion or activity lasting no more than 3 days that is open to the public. Temporary Events shall not include sporting activities other than bicycle and people races. Temporary Events shall not include temporary business operations except for grand-opening or similar type events hosted on the business property.

THEATER: A building or structure designed for the enactment of dramatic or musical performances and/or showing of motion pictures. For the purpose of this Code, a dinner theater shall be considered an eating establishment, and an outdoor theater shall not be classified as Theater.

USE: Any purpose for which a structure or parcel of land may be designed, arranged, intended, maintained or occupied; also, any activity, occupation, business or operation carried on, or intended to be carried on within a structure or on a parcel of land.

VETERINARY CLINIC: A facility rendering surgical and medical treatment to animals and having no limitation on overnight accommodations for the animals being treated. Crematory facilities shall not be allowed in a Veterinary Clinic.