

MONTGOMERY COUNTY PLANNING COMMISSION
December 8, 2010 @ 7:00 P.M.
Board Room, Government Center

A G E N D A

CALL TO ORDER:

DETERMINATION OF A QUORUM:

APPROVAL OF AGENDA:

APPROVAL OF CONSENT AGENDA:

PUBLIC ADDRESS:

PUBLIC HEARING:

1. A request by **William Mark King, II & Carolyn D. King** for a special use permit on 7.217 acres in an Agricultural (A-1) zoning district to allow a contractor's storage yard. The property is located at 3070 Seven Mile Tree Road and is identified as Tax Parcel No. 104-1-12 (Acct # 023225) in the Riner Magisterial District (District D). The property currently lies in an area designated as Rural in the 2025 Comprehensive Plan.

OLD BUSINESS:

- Nominating Committee Report

NEW BUSINESS:

WORKSESSION:

- Subdivision Ordinance Amendment Discussion (Jamie MacLean)

LIAISON REPORTS:

- Board of Supervisors- John Muffo
- Agriculture & Forestal District- Bob Miller
- Blacksburg Planning Commission – Frank Lau
- Christiansburg Planning Commission – Bryan Rice
- Economic Development Committee- John Tuttle
- Public Service Authority – Malvin Wells
- Parks & Recreation- Walt Haynes
- Radford Planning Commission- Bob Miller
- School Board- Bill Seitz
- Transportation Safety Committee- Malvin Wells
- Planning Director's Report- Steven Sandy
 - Megabus Service

**MONTGOMERY COUNTY PLANNING COMMISSION
CONSENT AGENDA
December 8, 2010**

A. APPROVAL OF MINUTES

- October 13, 2010

ISSUE/PURPOSE:

The above listed minutes are before the Planning Commission for approval.

AT A MEETING OF THE MONTGOMERY COUNTY PLANNING COMMISSION ON OCTOBER 13, 2010 IN THE BOARD ROOM, SECOND FLOOR, COUNTY GOVERNMENT CENTER, CHRISTIANSBURG, VIRGINIA:

CALL TO ORDER:

Mr. Rice, Chair called the meeting to order.

DETERMINATION OF A QUORUM:

Mr. Thum established the presence of a quorum.

Present: Bryan Rice, Chair
William Seitz, Vice Chair
Ryan Thum, Secretary
Joel Donahue, Member
Walt Haynes, Member
Malvin Wells, Member
Robert Miller, Member
Frank Lau, Member
John Tuttle, Member
John Muffo, Board of Supervisors Liaison
Steve Sandy, Planning Director
Dari Jenkins, Planning & Zoning Administrator
Jamie MacLean, Development Planner
Brea Hopkins, Planning & Zoning Technician
Marty McMahan, County Attorney

Absent: None

APPROVAL OF AGENDA:

On a motion by Mr. Seitz, seconded by Mr. Miller, and unanimously carried the agenda was approved.

PUBLIC ADDRESS:

Mr. Rice opened public address. There being no speakers the public address was closed.

PUBLIC HEARING:

Request by **Bryan & Katie Katz** to rezone approximately 1.653 acres from Agricultural (A-1) to Community Business (CB), with possible proffered conditions, to allow an office for bus operations with an apartment. The property is located at 3653 Peppers Ferry Road; identified as Tax Parcel No. 064-A-92, (Account No. 002869) in the Riner Magisterial District (District B). The property currently lies in an area designated as Village Expansion in the 2025 Comprehensive Plan and is further identified as Mixed Use within the Belview Village Plan.

Mr. Rice introduced the request.

Mr. Sandy stated the request was to rezone property located along Route 114. He reviewed the maps and photos of the property. The property is located within the Belview Village and is defined as a mixed use area. The building has recently been renovated. One side of the building is proposed to be used as an apartment with the other side being used as offices for University Travel. The property was previously used for "John's Auto Sales" and the lot is gravel. A business had not operated on the property within 2 years; therefore, the nonconforming use was terminated. University Travel located at the property and

began storing buses onsite. Based upon complaints regarding noise and dust, a notice of violation was issued requesting the cease of business use and removal of the buses from the property. The parking of large commercial buses requires Manufacturing (M1) zoning; however, that is not an appropriate zoning designation for the Village of Belview. The owner would like bus storage/parking to be considered an allowable accessory use in the Community Business (CB) district. The buses are stored on site when not in use. People do not board the bus on site. In July, VDOT stated the existing entrance is sufficient unless there is a change in use or intensity. Staff has requested an updated letter since the rezoning application was filed. A new letter dated October 13, 2010 confirmed their original decision; however, they reserved the right to change their determination. The site is served by public sewer and an onsite well. A 900 ft. extension of the water line would be required to connect to public water; however, the applicant does not intend to connect at this time. The storage of buses is not considered compatible with the surrounding area and rural character of the Belview Village. If the rezoning is approved, the intention of the applicant is that the buses would be an acceptable accessory use to the business; however, staff does not agree. The church has commented that there are no objections to the request. Mr. Katz has submitted some proffers excluding some of the uses that are allowed in the CB zoning district.

Mr. Thum stated there is a concern regarding parking buses on site.

Mr. Sandy stated the use does have a greater impact and does not seem to be allowed by the ordinance.

Mr. Thum asked if screening could be installed to mitigate the impact.

Mr. Sandy stated they would need to be parked on the gravel area unless there was a substantial amount of grading in the rear of the property. A fence may be installed; however, may not achieve the desired results.

Mr. McMahan stated parking of buses is not customary to office use. If rezoned the buses are going to be there and then we will have to go to court. Options are to deny the rezoning or to amend the ordinance to allow the bus parking. The complaints are all centered on the buses being on the property.

Mr. Seitz asked if it could be proffered to prevent parking at particular times of the day.

Mr. Sandy stated it was not because staff has determined the buses cannot be onsite for any period of time until the ordinance is amended.

Mr. Haynes stated the intent was to have the buses onsite and operate the business from the property.

Mr. Sandy stated he could rezone and have the office only but would have to park buses offsite.

Mr. Wells stated the noise and dust were issues for the neighbors. Those concerns result from parking buses; which the county attorney has deemed not allowable.

Mr. Donahue stated as presented the rezoning would not solve the entire problem of having the business because additional amendments and/or special use permits may be necessary to park the buses.

Mr. McMahan stated a proffer could be submitted to allow the buses once the ordinance is amended or a special use permit is obtained.

Mr. Katz stated that he would not meaningfully violate the zoning ordinance or the planning commission's decision. Any proffer that would make the planning commission comfortable is acceptable. The complaints are anonymous and may be vindictive against the business. The property was sold as a commercial property and was being taxed as commercial/industrial. Owners would like to use the property for an office for travel agency and bus coordination with attached apartment and parking lot as an accessory use.

Ms. Sara Brown discussed the operation of University Travel/All America Tours. The business operates primarily as internet and phone based business with limited public traffic. There are three (3) full time and seven (7) part time employees. If not allowed the business will have to be abandoned or relocated to

another county. The business will bring revenue to the county. An average of one (1) bus per day would be on site and sometimes will remain for a few days prior to moving. She noted they were attractive coaches and all were operable.

Mr. Katz stated the adjoining lot is zoned Community Business. There are not any plans for developing the property beyond its historic use as an office with apartment and parking lot. The property has been improved since it was purchased. Additional grass has been established around the apartment. The parking lot was used for vehicles for many years. A support statement has been signed by most area landowners. The estimated use is an average of 12 vehicle trips per day not including buses; therefore, traffic impacts are minimal. He noted revised proffers to reduce the uses allowed had been submitted in an effort to negate the need for public water. He noted he has attempted to adhere to county requirements. The issue of parking still needs to be addressed. He discussed the discrepancy between residential parking uses and commercial parking requirements. Buses are allowed in residential lots of 2 acres or more; however, are not allowed in commercial areas. In order to continue the process and allow the administrative functions of University Travel, he noted he was willing to proffer the following: There will be no overnight parking of tour buses on the property until such time that the planning commission has the opportunity to determine appropriate language that would specifically allow its use. He also stated he was willing to mitigate any impacts or concerns from neighbors.

Mr. Thum asked if the buses could be parked at the back of the lot or if the owner was willing to install landscaping/screening.

Mr. Katz stated that with weight of the buses and the amount of fill, engineering would be required making it cost prohibitive. He noted he was willing to look landscaping; however, would need to be feasible in aspects to moving the vehicles and allowing the church to use the parking lot for overflow.

Mr. Donahue noted there was not a contour interval noted on the site plan. He stated he felt a dustless surface is a fair suggestion for a proffer.

Mr. Rice opened the public hearing.

Mr. Greg Miller, adjoining owner, stated he supported the request to allow the business to operate. The dust was worse when the car lot was there. The buses are further off the road than the cars. Access to the rear of the property is not feasible. None of the adjoining owners have indicated opposition. The Planning Commission should consider changing the ordinance to allow the bus parking if necessary. The new owners have fixed the structure and added grass to the front of the property improving the appearance. This is one of the best uses possible for this property. He stated he had never noticed the noise from the buses and that it was a lot quieter than the tractor trailers on the road. If the buses come in at night the drivers purposely pull in instead of backing in to prevent the backup beepers from sounding.

Mr. Sam Young, stated he had lived in the area for years. He has not heard the buses. The owners have worked hard improving the property and it looks very nice. The business is an asset to the county.

There being no further comment the public hearing was closed.

Mr. Miller commended Mr. Katz for his presentation. He noted that he appreciated Mr. McMahon's proposed solution and Mr. Katz response with a proffer to prevent the parking of buses until the zoning ordinance can be amended to allow the buses as by right accessory use or by an approved special use permit. He noted he did not concur about paving because gravel allows for more water absorption.

Mr. Tuttle stated he opposed paving the lot because the dust is not a huge issue. There will be a large amount of runoff if paved. Route 114 has more noise than the buses could produce. He noted he would be in favor of an ordinance amendment to allow the parking of buses.

Mr. Haynes stated he also had no concerns regarding the use of the property; however, it needed to be done legally. The business is a benefit for the area.

Mr. Rice stated the property was more aesthetically pleasing. He concurred with the idea to approve the rezoning contingent on the proffer that was offered by Mr. Katz.

Mr. Lau stated anonymous complaints should be rejected. He noted that he drove buses part time and when moving them; you cannot hear the backup beepers. Motor coaches are not noisy and are very nice for trips.

Mr. Donahue stated the proposed rezoning is appropriate for that area.

On a motion by Mr. Thum, seconded by Mr. Seitz, and carried by an 9-0 vote the Planning Commission recommended approval of the request by Bryan & Katie Katz to rezone approximately 1.653 acres from Agricultural (A-1) to Community Business (CB), to allow an office for bus operations with an apartment with the following proffers being submitted in writing:

1. The following "by right" uses in Community Business (CB) district are voluntarily excluded:
 - Business or Trade School
 - Cemetery
 - Community Center
 - Conference or Training Center
 - Crematorium
 - Custom Meat Cutting, Processing, Sales
 - Funeral Home
 - Homeless Shelter
 - Library
 - School
 - Telecommunications Tower, attached
2. Any change from the existing use of the property shall require approval and compliance with all applicable VDOT regulations.
3. No commercial buses shall be parked or stored on the property until such time that the Montgomery County Zoning Ordinance is amended to either specifically allow the parking of large commercial buses as a permitted accessory use by right in the Community Business (CB) zoning district or when the property owner is allowed by special use permit approved by the board of supervisors.

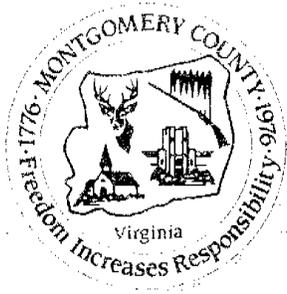
OLD BUSINESS:

None.

NEW BUSINESS:

Mr. Sandy noted that invitations for the annual planning commission dinner had been sent to the commission members. Those wishing to attend should advise staff.

There being no further business, the meeting was adjourned at 8:25 pm.



MONTGOMERY COUNTY PLANNING & GIS SERVICES

755 ROANOKE STREET, SUITE 2A, CHRISTIANSBURG, VIRGINIA 24073-3177

MEMORANDUM

TO: Planning Commission
FROM: Planning Staff *James*
DATE: December 2, 2010
RE: **Staff Analysis (SU-2010-08392)**

A request by **William Mark King, II & Carolyn D. King** for a special use permit on 7.217 acres in an Agricultural (A-1) zoning district to allow a contractor's storage yard. The property is located at 3070 Seven Mile Tree Road and is identified as Tax Parcel No. 104-1-12 (Acct # 023225) in the Riner Magisterial District (District D). The property currently lies in an area designated as Rural in the 2025 Comprehensive Plan.

I. Nature of Request

The applicant is requesting a Special Use Permit (SUP) on approximately 7.217 acres zoned Agriculture (A-1) to allow a Contractor's Storage Yard for an excavation business.

II. Location

The property is located at 3070 Seven Mile Tree Road and is identified as Tax Parcel No. 104-1-12 (Acct # 023225) in the Riner Magisterial District (District D). The property currently lies in an area designated as Rural in the 2025 Comprehensive Plan. This property is part of the Bethel Park Subdivision platted in 1980.

The subject property is zoned Agricultural (A-1) and is bordered to the northwest and northeast by properties zoned Rural Residential (RR). The properties to the northwest and northeast, totaling approximately 48 acres, were rezoned in 2005 from Agricultural (A-1) to Rural Residential (RR) to create a single family subdivision containing approximately 13 lots.

To the east, southeast, and southwest the subject parcel is surrounded by properties zoned Agricultural (A-1). On the south side the subject parcel is bordered by Seven Mile Tree Rd (Rt. F-059) which runs parallel to Interstate I-81 (Map attached).

III. Impacts

This Special Use Permit is requested by the applicant to allow a Contractor's Storage Yard for an excavation business.

A. Transportation

The applicant has stated that customers do not visit the site, and that the business generates approximately four (4) trips per day. Therefore, the proposed use does not generate enough vehicle trips per hour to require a review under the Virginia Department of Transportation (VDOT) Chapter 527 Regulation. The applicant intends to utilize the existing entrance to the site from Seven Mile Tree Road (Rt. F-059). Seven Mile Tree Road is a state maintained, paved road, which according to 2008 VDOT estimates has an AADT (annual average daily traffic count) of 250 vehicles. Based on the information provided by the applicant, it does not appear that the daily trips generated by the business will significantly affect the traffic levels on Seven Mile Tree Road (Rt. F-059).

On November 18, 2010, staff met with VDOT representatives and the applicant about the special use permit request. After reviewing the request, VDOT representatives indicated that there would be no change in traffic patterns and no entrance upgrades would be required unless additional changes were made to the site. A letter from VDOT officials, dated November 19, 2010, is included with this report for review.

B. Infrastructure

The property is currently served by Montgomery County Public Service Authority (PSA) water and private on-site sewage disposal. No changes to the existing services are proposed as a result of this special use permit application. A letter from Montgomery County PSA, dated November 17, 2010 is included with this report for review.

C. Schools

The applicant is proposing no impact to the school system as he intends to use the property for equipment storage. Therefore, no comments have been received from Montgomery County Public Schools.

IV. Comprehensive Plan

The site is located within an area designated as *Rural* on the future policy map of the comprehensive plan. The comprehensive plan defines Rural as areas of the County as those areas not generally served by public utilities, where agricultural and rural residential uses are predominant and should be preserved and stabilized. These areas include low-density rural residential subdivisions and active agriculture on secondary agricultural soils. Agricultural uses in these areas are often fragmented and subject to encroaching rural residential development.

The Rural Area Land Use policy (1.3.1-a) states the preferred land uses in Rural Areas are rural residential development and agriculture. Rather than promoting new rural residential development in Rural Areas, the County seeks to maintain the rural character of existing rural residential developments. The County also seeks to maintain existing agricultural uses in Rural Areas.

Rural Area Land Use policy (1.3.1-e) addresses non-agricultural uses, "New non-agriculturally based industrial and commercial uses will generally be discouraged in Rural Areas, unless the use is compatible in scale and intensity with agricultural and rural residential uses and poses no threat to public health, safety and welfare."

While commercial uses are generally discouraged in "Rural" areas, this type of commercial use generally serves a need in rural areas. Careful consideration should be given to the potential impact of these uses on surrounding areas. If approved, conditions on the proposed use should be considered to ensure that the use is compatible in scale and intensity to surrounding uses.

V. Analysis

This Special Use Permit is requested by the applicant to bring an existing use into compliance.

In response to a complaint received by planning staff, Deputy Saunders visited the subject property on September 9, 2010 and observed the property was being used as a "contractor's storage yard".

Section 10-61 of the Zoning Ordinance defines "Contractor's Storage Yard" as:

An area used for the storage of equipment and/or materials used for providing construction-related contracting services, including but not limited to flooring, heating, plumbing, roofing, landscaping and excavation.

A contractor's storage yard is allowed within the Agriculture (A-1) Zoning District; however a special use permit (SUP) is required. Since an SUP was not obtained for this use, the Zoning Administrator determined that the property owners in violation of Section 10-21, Agriculture (A-1) District, of the Montgomery County Code. The property owners were advised to remedy the violation within thirty (30) days or appeal the Zoning Administrators' decision. The property owners brought the property into compliance with all county ordinances in a timely fashion, and applied for an SUP on November 1, 2010.

The applicants wish to utilize the property as a Contractor's Storage Yard to support the operation of an excavation business. The site will serve as a storage area for equipment such as vehicles, dump trucks, and excavation equipment when not in use; however this equipment is largely stored at jobsites.

Extensive screening provided by existing mature evergreen trees contributes to decreased visibility from adjoining properties and Seven Mile Tree Road. No signage for the business currently exists, and no addition of signage has been proposed. The applicants have stated that signage is not necessary as services are provided to customers on site, rather than on the subject property, and business opportunities are generated predominantly by referrals from past clients.

The site is served by one entrance along Seven Mile Tree Road (Rt. F-059) and VDOT officials have indicated that no entrance upgrades would be required unless additional changes were made to the site.

The applicants also reside on the property, and small portion of the dwelling serves as an office space for business use. According to the applicants, there are currently only two (2) employees, Mr. and Mrs. King, associated with the business. The applicants do not anticipate the business growing to more than four (4) employees in the future.

There is currently one accessory building on site, which is approximately 70' x 35'. No permit information was found on the accessory building. Based on Commissioner of Revenue data, it appears that the structure was built in 1980. If the building will be utilized for business use the applicants will need to discuss, with the Montgomery County Building Official whether or not a "change of use" permit is needed. The applicants are proposing two (2) additional accessory structures for storage purposes, not to exceed 1200 sq. ft. and 18 ft. in height. The proposed type and location of accessory structures are included with the application materials. The applicants have also stated that they may also install a carport for family vehicles on their property in the upcoming year.

Two cargo utility trailers, associated with the Boy Scouts of America, are stored on the applicant's property. The utility trailers are stored on the subject parcel for security, to avoid leaving them unattended at a nearby church.

The average hours of operation are from 6:00 a.m. until 9:00 p.m. During the winter the applicants are considering offering snow removal services, and if this occurs the applicants have stated that hours of operation may be extended.

Currently, no additional lighting on the site has been proposed. There is an existing dusk to dawn light on the site to which no changes have been proposed. The applicant has stated that due to the mature vegetative buffer existing on the site, light pollution does not spill on to adjacent parcels. While no additional lighting has been proposed, attention should be given to future exterior lighting in order to preserve nighttime skies. A condition addressing lighting will be recommended in the staff recommendation portion of the analysis. Attention will be given toward lighting when site plans are submitted for this site.

According to section 10-21(4)(i)(g) of the Montgomery County Code, the subject parcel meets the criteria required to be considered for a special use permit for a Contractor's

Storage Yard. The proposed intensity of the use appears to be compatible with the surrounding area, and appears to be consistent with the regulations set forth in the zoning ordinance.

All adjoining property owners were notified in compliance with the Code of Virginia and Section 10-52(3) of the Montgomery County Code. At the time this report was issued, staff had not received any comment on this request. However, consideration should be given to adjacent property owners or other interested citizens attending the public hearing to express their views regarding this request.

VI. Staff Recommendation

Staff preliminarily recommends approval of this request as submitted by William Mark King and Carolyn D. King for a special use permit to allow a Contractor's Storage Yard with the following conditions:

1. This special use permit authorizes use of the property for a landscape contractor's storage yard and shall conform to the Site Plan included within application materials submitted October 28, 2010. No retail sales of any nature shall be permitted on the property.
2. No more than four (4) employee vehicles shall be parked on the property at any given time.
3. The contractor's storage yard shall not be open to the public and shall create no exterior impacts including noise, vibration, glare, odors, or electrical interference.
4. Equipment and vehicles stored on the property shall be in good working condition at all times and shall be owned or leased by the property owner or property owner's excavation company. No more than ten (10) pieces of said equipment and/or vehicles associated with the business shall be on the property at any given time.
5. Hours of operation shall be limited to 6:00 am through 9:00 pm except for snow removal preparation.
6. No trash, litter or debris shall accumulate or be stored on the property.
7. Any lighting installed on the property shall be dusk to dawn, shielded fixtures to avoid glare onto adjacent properties and night sky, and shall comply with Montgomery County Zoning Ordinance 10-46(9) Performance Standards.
8. Storage of all excavation equipment, machinery, and tools shall be screened from view of adjacent properties.

9. A buffer shall be maintained consisting of mature evergreen vegetation and existing privacy fence, as shown on the 2008 Montgomery County Aerial Photography and concept plan dated October 28, 2010 (aerial photo map attached). Replacement of buffer, if necessary, shall be completed within thirty (30) days (season permitting). Tree size associated with replacement of existing evergreen buffer shall be in compliance with zoning ordinance requirements.

10. A natural vegetative buffer shall be provided, consisting at a minimum of one row of Leyland Cypress or Foster Holly (or equivalent evergreen screening tree) with a minimum of eight (8) trees, equal space apart, on the eastern boundary of the property to mitigate possible negative effects on the view shed for Interstate I-81, and property identified as tax map 105-A-16, account # 014448. Trees shall be a minimum of 6' tall at planting, and plantings shall be completed by May 15, 2011.

Enclosures: Aerial Photo Map
Current Zoning Map
Application Materials
VDOT Letter, dated November 19, 2010
PSA Letter, dated November 17, 2010



**William Mark King II
Request For
Special Use Permit
(Parcel ID: 023225)**

Legend

- State Roads
- Interstate Highway
- Private Roads (Named)
- Planned Highway
- Railroad
- Hydrology
- Tax Parcels
- Subject Property (King)



THE INFORMATION SHOWN HEREON IS FOR INFORMATIONAL PURPOSES ONLY. THE MONTGOMERY COUNTY PLANNING & GIS SERVICES DEPARTMENT DOES NOT WARRANT THE ACCURACY OF THE INFORMATION SHOWN HEREON. THE INFORMATION SHOWN HEREON IS FOR INFORMATIONAL PURPOSES ONLY. THE MONTGOMERY COUNTY PLANNING & GIS SERVICES DEPARTMENT DOES NOT WARRANT THE ACCURACY OF THE INFORMATION SHOWN HEREON. THE INFORMATION SHOWN HEREON IS FOR INFORMATIONAL PURPOSES ONLY. THE MONTGOMERY COUNTY PLANNING & GIS SERVICES DEPARTMENT DOES NOT WARRANT THE ACCURACY OF THE INFORMATION SHOWN HEREON.





Application to Planning Commission and Board of Supervisors

Application For: (check appropriate boxes)

Rezoning Rezoning & Special Use Permit Special Use Permit

Owner/Applicant Information: (Use current mailing/contact information for all property owners. An additional sheet may be attached for multiple owners.)

Property Owner: Carolyn D. King Agent: _____
William Mark King, Jr

Address: 3070 Seven Mile Tree Rd Address: _____
Christiansburg VA 24073

Phone 1: 540-381-5645 Phone 1: _____

Phone 2: _____ Phone 2: _____

Email: mking11@hotmail.com Email: _____

Location of Property/ Site Address: 3070 Seven Mile Tree Rd Christiansburg VA 24073

Legal Record of Property: Total Area: 7.2168 Acres **Magisterial District** Riner

Parcel ID: 023225 **Tax Parcel Number(s):** 104-1-12

Rezoning Details: Current Zoning District: _____ **Requested Zoning District:** _____

Desired Use(s): n/a

Special Use Permit: Current Zoning District A-1 **Total Area/Acres:** 7.2168

Desired Use(s): Contractor's Storage Yard

Comprehensive Plan Designation: _____

Traffic Impact Analysis Required: Yes (payment enclosed) No

I certify that the information supplied on this application and on the attachments provided (maps or other information) is accurate and true to the best of my knowledge. In addition, I hereby grant permission to the agents and employees of Montgomery County and State of Virginia to enter the above property for the purposes of processing and reviewing the above application.

William M King Jr 10/28/10 _____
Agent's Signature Date

Carolyn D King 10/28/10
Property Owner(s) Signature Date

FOR OFFICE USE ONLY

Date Received: _____ Application Number: _____

Traffic Impact Analysis and Payment Received: Yes No Date Submitted to VDOT: _____

Additional Special Use Permit Requirements

The applicant for special use permit shall provide a statement of justification to address the following items in the application materials to demonstrate what impact the proposed request will have on the County's resources and how the request complies with Montgomery County's comprehensive plan.

Section 10-54(3)(g), Montgomery County Zoning Ordinance

Issues for Consideration. In considering a Special Use Permit application, the following factors shall be given reasonable consideration. The application shall address all the following in its statement of justification or Special Use Permit plat unless not applicable, in addition to any other standards imposed by this Ordinance:

1. Whether the proposed Special Use Permit is consistent with the Comprehensive Plan (Addressed under "3. Comprehensive Plan Justification"). **Yes, Rural Comp Plan Designation**
2. Whether the proposed Special Use Permit will adequately provide for safety from fire hazards and have effective measures of fire control. **We do not store fuel onsite. This SUP should not contribute to any fire hazards.**
3. The level and impact of any noise emanating from the site, including that generated by the proposed use, in relation to the uses in the immediate area. **We have grown pine trees as a barrier around the area where the equipment is kept. We have installed a privacy fence to shield the one neighbor where the pine trees died. Interstate 81 is 50 yards from our property. The sound from it drowns out other sounds.**
4. The glare or light that may be generated by the proposed use in relation to uses in the immediate area.
There is one dusk to dawn light with a cone shaped shield on the end of the storage building that was installed 13 years ago. It does not affect the neighbors due to the screening of trees and privacy fence.
5. The proposed location, lighting and type of signs in relation to the proposed use, uses in the area, and the sign requirements of this Ordinance. **We do not have signs and do not plan to use any in the future.**
6. The compatibility of the proposed use with other existing or proposed uses in the neighborhood, and adjacent parcels. **The neighbors on the East are zoned agriculture and neighbors on the North are Rural Residential. Tractors and other farm equipment are brought in as needed. Our property sits back behind the other homes on our road. The location where we keep our equipment is not visible from Seven Mile Tree Road.**
7. The location and area footprint with dimensions (all drawn to scale), nature and height of existing or proposed buildings, structures, walls, and fences on the site and in the neighborhood. **See attached**
8. The nature and extent of existing or proposed landscaping, screening and buffering on the site and in the neighborhood. **We are screened by mature trees on three sides of the property that the equipment would be kept on. We have installed an eight foot privacy fence to completely shield neighbors at the Southeast (back of the property) of us. We are enclosing concrete pad #2 (#5 on map legend) with 4 foot fencing. This is where the extra pipe and other material will be kept.**

9. The timing and phasing of the proposed development and the duration of the proposed use. **We would like to build two storage buildings (each 1200 sq ft or less) sometime in the future. They would be placed in the general location of the two existing concrete pads (#4 & #5 on map). We also want to build a carport for our family vehicles within the next year or so. We plan on continuing this line of work and using our property to keep our equipment as long as we own this land. See attached concept drawing.**
10. Whether the proposed Special Use Permit will result in the preservation or destruction, loss or damage of any topographic or physical, natural, scenic, archaeological or historic feature of significant importance. **We are very careful to protect the area from erosion or other damage. Owner has Erosion Control License and will get a land disturbance permit if needed.**
11. Whether the proposed Special Use Permit at the specified location will contribute to or promote the welfare or convenience of the public. **Our business does not affect the public because our customers do not come to our house.**
12. The traffic expected to be generated by the proposed use, the adequacy of access roads and the vehicular and pedestrian circulation elements (on and off-site) of the proposed use, all in relation to the public's interest in pedestrian and vehicular safety and efficient traffic movement. **As stated in #11, we do not have customer traffic. The only traffic is our vehicles in and out. We travel the .7 miles on Seven Mile Tree Road and our driveway. We are very careful regardless if neighbors are walking/exercising or not. There is an average of four trips per day for business use.**
13. Whether, in the case of existing structures proposed to be converted to uses requiring a Special Use Permit, the structures meet all code requirements of Montgomery County. **n/a**
14. Whether the proposed Special Use Permit will be served adequately by essential public facilities and services. **n/a We do business paperwork off of our kitchen table.**
15. The effect of the proposed Special Use Permit on groundwater supply. **n/a**
16. The effect of the proposed Special Use Permit on the structural capacity of the soils. **n/a**
17. Whether the proposed use will facilitate orderly and safe road development and transportation. **We will not develop another road to the area.**
18. The effect of the proposed Special Use Permit on environmentally sensitive land or natural features, wildlife habitat and vegetation, water quality and air quality. **Our equipment does not harm wildlife or vegetation. There are plenty living around us. There isn't a water supply on our land. The exhaust from starting a truck or piece of equipment isn't noticeable. Interstate I-81 lies on the other side of Seven Mile Tree Road with much more emissions each day.**
19. Whether the proposed Special Use Permit use will provide desirable employment and enlarge the tax base by encouraging economic development activities consistent with the Comprehensive Plan. **We are a small family owned business. We have been responsible tax payers since starting the business and will continue to do so.**
20. Whether the proposed Special Use Permit considers the needs of agriculture, industry, and businesses in future growth. **We do anticipate building storage buildings in the future. This should not affect others around us.**
21. The effect of the proposed Special Use Permit use in enhancing affordable shelter opportunities for residents of the County. **n/a**
22. The location, character, and size of any outdoor storage. **See attached**

23. The proposed use of open space. **We plan to park our equipment i.e.: dump truck, excavators, skid steer, etc. in the area between our house and the concrete pad and pine trees.**
24. The location of any major floodplain and steep slopes. **There are no floodplains or steep slopes in proposed area.**
25. The location and use of any existing non-conforming uses and structures. *n/a*
26. The location and type of any fuel and fuel storage. **Fuel is not stored onsite.**
27. The location and use of any anticipated accessory uses and structures. **See attached, future buildings (1200 sq ft or less) will be used to store equipment.**
28. The area of each use; if appropriate.
29. The proposed days/hours of operation. **6 AM-9PM, unless an emergency. We are considering doing snow removal this winter. If we do take this on, hours will be different.**
30. The location and screening of parking and loading spaces and/or areas. **We have the mature trees and a privacy fence as screening.**
31. The location and nature of any proposed security features and provisions. **We have one dusk to dawn light that lights the area. We do not have customer traffic nor security problems.**
32. The number of employees. **Family owned business with family members running the business. At some time in the future, our business could grow to 3 or 4 employees that are not family or live on said property.**
33. The location of any existing and/or proposed adequate on and off-site infrastructure. *n/a*
34. Any anticipated odors, which may be generated by the uses on site. *n/a*
35. Whether the proposed Special Use Permit uses have sufficient measures to mitigate the impact of construction traffic on existing neighborhoods and school areas. **We do not conduct business with customer's onsite. We go to them and provide excavation services. This does not affect neighbors unless they need our service.**

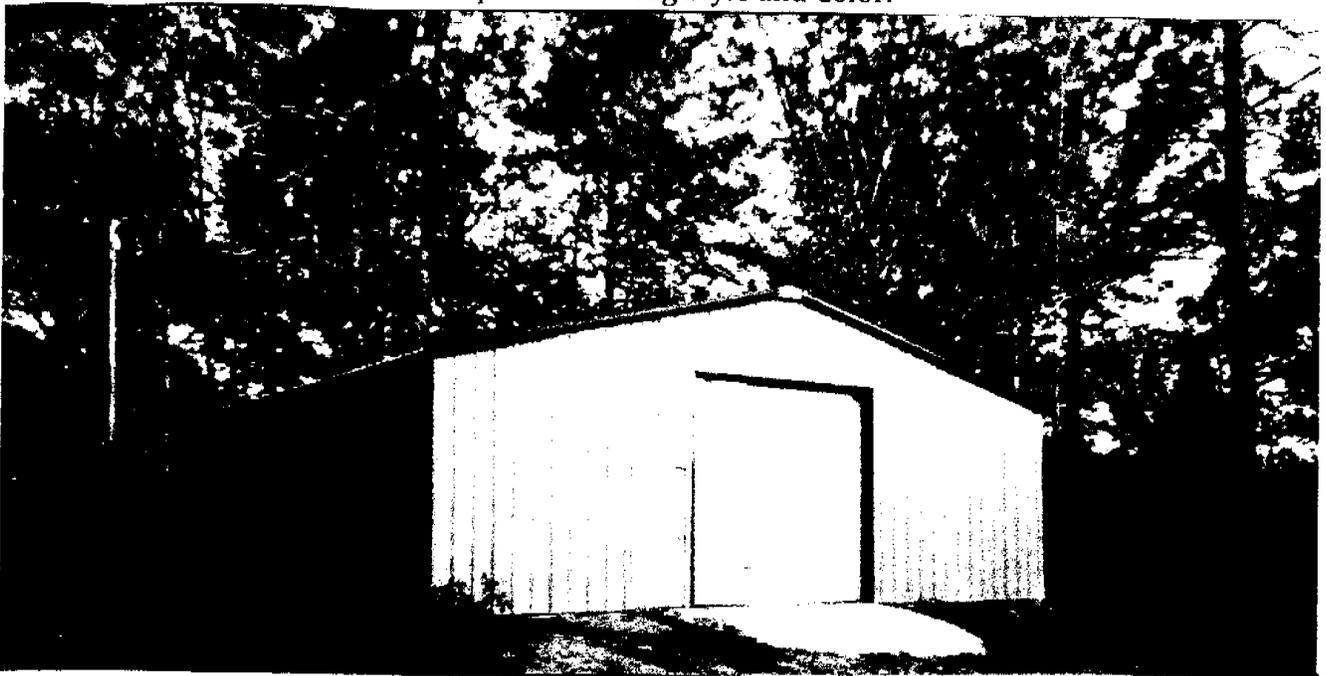
Reason for Application

William Mark, II and Carolyn D. King, owners of 3070 Seven Mile Tree Road and The King & I, Inc are applying for a Special Use Permit to keep our excavation equipment on said property. The business was created and incorporated in 2000. We have been responsible landowners and business owners. Once we learned of this violation, we strived to come in compliance and have erected a privacy fence to completely screen off the left side of our property from our closest neighbors. We have one dusk to dawn light that was put up prior to our starting the business. The row of pine trees and the privacy fence screens our light for our neighbors. Interstate 81 is 50 ft from our property. Any sound of our equipment running is drowned out by the traffic noise. We are careful not to reeve the engines, etc. We are also in the fly zone of helicopters transporting patients to and from Carilion New River Valley Medical Center.

Description of Business

We operate an excavation business. We do not have customers that come to our property nor do we have heavy traffic in and out of our driveway onto Seven Mile Tree Road. Our equipment is left on the job site and only brought back to our property in between jobs. We are careful not to inconvenience our neighbors or make our road unsafe for them. We have even helped our neighbors by using the equipment to smooth out their driveways, move dirt or clear out snow as asked without compensation. We hope that we can obtain the SUP and be able to continue serving our community and neighbors.

Proposed Building Style and Color.





COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
PO Box 3071
Salem VA 24153-0560

GREGORY A. WHIRLEY
COMMISSIONER

November 19, 2010

Mark and Carolyn King
3070 Seven Mile Tree Road
Christiansburg, VA 24073

RE: The King & I, Inc.
Route F-059, Montgomery County

Dear Mr. and Mrs. King:

Please be advised that the Virginia Department of Transportation does not see a problem with the request made by The King & I, Inc. to allow a contractor's office and storage yard at 3070 Seven Mile Tree Road. We feel that there would be no change in traffic patterns and no upgrades would be required unless additional changes are made to the site, therefore, the entrance located on this property may remain in its present condition at this time. Should there be changes in the future, we will look at the entrance again. If you have any questions, please contact John Jones at (540) 381-7198.

Sincerely,

John C. Thompson, P.E.
Area Land Use Engineer

JCI/gat

c: Jamie R. MacLean, Montgomery County Planning & GIS

FOR THE DIRECTOR OF TRANSPORTATION, VIRGINIA DEPARTMENT OF TRANSPORTATION
1000 COMMONWEALTH CENTER DRIVE, SUITE 200, SALEM, VA 24153-0560
PHONE: (540) 381-7198 FAX: (540) 381-7199

Copyright © 2010 by the Commonwealth of Virginia



MONTGOMERY COUNTY
PUBLIC SERVICE AUTHORITY

Government Center
Suite 2I
755 Roanoke Street
Christiansburg, VA 24073-3185

Gary D. Creed, Chair
James D. Politis, Vice-Chair
Mary W. Biggs, Secretary-Treasurer
Annette S. Perkins, Member
William H. Brown, Member
John A. Muffo, Member
Douglas W. Marrs, Member

Robert C. Fronk, PE
PSA Director

November 17, 2010

Mr. William M King II
3070 Seven Mile Tree Road
Christiansburg, VA 24073

RE: Availability No. 10-84
3070 Seven Mile Tree Road
Tax Map No. 104- 1 12
Parcel ID 023225
Water/Sewer

Dear Mr. King:

Public water is currently provided while sanitary sewer is not available to this property at 3070 Seven Mile Tree Road, Tax Map No. 104- 1 12. Our records indicate that this property is currently served by a 5/8" x 3/4" water meter service.

Increased or additional public water service can be provided by a service connection to the 4-inch public water main located along the near side of Seven Mile Tree Road adjacent to the subject property. Additional water facility fees would be required if the water meter size is increased or additional units with connection to the public water are installed. The water facility fee is \$2,500.00 per each additional unit. Facility fees for increased water meter size would be provided upon request.

Additional connections to the public water would require a water connection fee of \$750.00 per new connection. The owner would be responsible for the complete installation of the water lateral from the building to the water meter along Seven Mile Tree Road. The PSA must inspect the water lateral between the water meter and building. You should coordinate the inspection of the water lateral with the PSA prior to installation.

Sanitary sewer service is not currently available to this area and there are no immediate plans to sewer this area. The closest sewer facilities are beyond a reasonable distance to consider extending public sewer to serve this property. It is suggested that you consider using a septic system for new construction on this property.

Please be advised that all PSA water and sewer systems have a fixed number of available connections. Connections are reserved by payment of facility and connection fees, provided service is currently available to the subject property.

Page Two
Mr. William M King II
November 17, 2010

You must submit another application for water and sewer service if you plan to subdivide this property. Please be advised that water and sewer fees would be charged for each residential or commercial unit such that another building on this property would require payment of an additional facility fee even if supplied by the existing water meter service.

If the owner wants to proceed with this service, please make application and pay the appropriate fee at the Finance Office in the Montgomery County Government Center at 755 Roanoke Street.
This letter and stated fees are only valid to November 1, 2011.

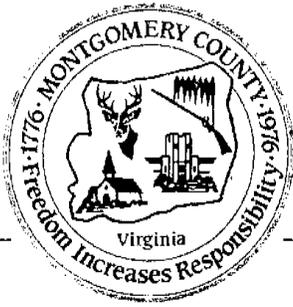
If you should have questions or need additional clarification of the above information, please call me at 381-1997.

Sincerely,



Robert C. Fronk, PE
PSA Director

cc: Montgomery Co. Planning Dept.



MONTGOMERY COUNTY PLANNING & GIS SERVICES

755 ROANOKE STREET, SUITE 2A, CHRISTIANSBURG, VIRGINIA 24073-3177

MEMORANDUM

TO: Montgomery County Planning Commission

FROM: Jamie Rogers MacLean, CZO *JRM*
Development Planner

DATE: December 1, 2010

SUBJ: Proposed Subdivision Ordinance Amendment(s)

Staff has been working on amendment(s) to the Subdivision Ordinance section(s) identified below. Enclosed are copies of the proposed amendment(s) in ordinance form.

- Article IV of the Montgomery County Code
 - An amendment to update Virginia State Code references from Title 15.1 to 15.2.
- Article IV, Section 8-111
 - An amendment to clarify the definition of the term "Remainder".
- Article IV, Section 8-111
 - An amendment to clarify the definition of "Immediate Family".
- Article IV, Section 8-111
 - An amendment to clarify the definition of the term "Subdivision, Major".
- Article IV, Section 8-135
 - An amendment to require the Planning Commission to review and make a recommendation to the governing body in cases where an application is received to modify the boundaries of a previously approved subdivision resulting in the potential for the creation of new lots.
- Article IV, Section 8-136
 - An amendment to include a reference to 8-201, which outlines fees associated with street naming and signage.
- Article IV, Section 8-152
 - An amendment to facilitate subdivision review by the Virginia Department of Transportation.
- Article IV, Section 8-153(3)(bb)
 - An amendment to clarify the preferred location of on-site sewage disposal systems.

- Article IV, Section 8-173
 - An amendment to require delineation of tracts currently within an agricultural and forestall district on preliminary plats of major subdivisions.
- Article IV, Section 8-173
 - An amendment to require delineation of tracts currently within a conservation easement on preliminary plats of major subdivisions.
- Article IV, Section 8-173
 - An amendment to require delineation of tracts within the dam inundation zone on preliminary plats of major subdivisions.
- Article IV, Section 8-173
 - An amendment to require the delineation of all drainage easements, utility easements, sewer lines, water lines, power lines, manholes, and fire hydrants on preliminary plats of major subdivisions.
- Article IV, Section 8-173(d)
 - An amendment to add language specifying the time which an approved preliminary plat is valid, and the prescribed method for calculating such time on preliminary plats of major subdivisions.
- Article IV, Section 8-174
 - An amendment to require delineation of tracts currently within an agricultural and forestall district on final plats of minor and family subdivisions.
- Article IV, Section 8-174
 - An amendment to require delineation of tracts currently within a conservation easement on final plats of minor and family subdivisions.
- Article IV, Section 8-174
 - An amendment to require delineation of tracts within the dam inundation zone on final plats of minor and family subdivisions.
- Article IV, Section 8-174
 - An amendment to require the delineation of all drainage easements, utility easements, sewer lines, water lines, power lines, manholes, and fire hydrants on final plats of minor and family subdivisions.
- Article V, Section 8-201
 - An amendment to clarify the street naming process and associated fees.
- Additional information will be provided about "Remainder" lots or tracts for review. The sections which could be affected by the planning commission's recommendations have been highlighted in yellow.

Enclosure(s): Proposed Amendment(s)

ARTICLE IV. SUBDIVISIONS*

***Editor's note:** Ord. No. 1992-10, adopted Nov. 12, 1992, amended Art. IV, §§ 8-111--8-117, 8-131--8-137, 8-151--8-160, 8-171--8-175, 8-186--8-189, in its entirety and enacted similar new provisions as herein set out. Former Art. IV derived from the following legislation:

TABLE INSET:

Ord. No.	Section	Adoption date	Ord. No.	Section	Adoption date
Code of 1975	1--4		1988-13		7-25-88
	7--18		1988-15		8- 8-88
	20--46		1988-28		11- 9-88
1984-21		8-13-84	1988-29		12-12-88
1984-31		10-22-84	1990-5		1-22-90
1986-15		9- 8-86	1990-30		12-10-90
1987-8	16-20	6- 8-87	1991-20		11-13-91

Cross references: Debris in subdivisions, etc., § 9-2.

State law references: Codification of subdivision ordinance, Code of Virginia, § ~~15.1-37.3~~ **15.2-1433**; land subdivision and development, Code of Virginia, § ~~15.1-465~~ **15.2-2240** et seq.; Virginia Public Records Act, Code of Virginia, § 42.1-76 et seq.

DIVISION 1. GENERALLY

Sec. 8-111. Definitions.

For the purposes of this article certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number include the plural and the plural the singular, unless the natural construction of the word indicates otherwise; the word "shall" is mandatory and not directory; the word "approve" shall be considered to be followed by the words "or disapproved"; any reference to this article includes all ordinances amending or supplementing the same; all distances and areas refer to measurement in a horizontal plane:

Agent means the representative of the board of supervisors who has been appointed to serve as the agent or coagent of the board in approving the subdivision plats.

Board or board of supervisors means the Montgomery County board of supervisors.

Bond means an undertaking by an insurance company (bonding company) licensed to do business in the state guaranteeing that a subdivider will perform certain acts as regards the construction and maintenance of required improvements.

Building setback means the minimum distance that a building must be set back from a lot line.

Commission or planning commission means the Montgomery County Planning Commission.

Construction plan means the maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of this article as a condition of the approval of the plat.

Cul-de-sac means a street with only one (1) outlet and having an appropriate turnaround area for a safe and convenient reverse traffic movement.

Easement. The definition of "easement" shall be deemed that recognized by law.

Engineer shall mean a professional engineer licensed for practice under Chapter 4, Title 54.1 Code of Virginia.

Escrow account means a deposit of cash or a certified check with the local government in lieu of actual construction and maintenance of required improvements as specified in this article.

Improvement means any street, street sign, drainage ditch, water line, sewer line, park or other facility.

Jurisdiction means the area or territory subject to the legislative control of a local government.

Letter of credit means an irrevocable guarantee of payment sufficient to cover the cost of constructing and maintaining required improvements, if the subdivider fails to do so.

Local government attorney means an attorney designated by the board of supervisors.

Lot means any parcel of land created by subdivision, including any parcels to be retained by the current owner.

Plat means and includes the terms "map," "plan," "plot," "replat," or "replot." A map or plan of a tract or parcel of land which is to be or which has been subdivided. When used as a verb, "plat" is synonymous with "subdivide."

Public service authority means the county public service authority.

Public sewer system or *public water system* means those public sewer systems or public water systems provided for public use.

Remainder means a lot of a subdivided property that is not to be offered for immediate sale and that is twenty (20) acres or larger.

Right-of-way. The definition of right-of-way shall be deemed that recognized by law.

Street means a highway, street, avenue, boulevard, road, lane, alley or any way which provides ingress and egress.

Street, private means any street that is unmaintained or is maintained by a private organization or individuals.

Street, public means a street that provides unrestricted ingress and egress by the public, and which is maintained by the Virginia Department of Transportation or by a municipality.

Subdivider means any person, corporation, partnership, or other entity owning any tract, lot or parcel of land to be subdivided.

Subdivision means the division of a parcel of land into two (2) or more lots, tracts, or parcels for the purpose, whether immediate or future, of transfer of ownership or building development.

Subdivision, family, means a single division of a lot or parcel for the purpose of a sale or gift to a member of the immediate family. **For the purpose of this subsection, a member of the immediate family is defined as any person who is naturally or legally defined as offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent,** ~~(as defined by the Code of Virginia)~~ of the property owner.

Subdivision, major means any subdivision that:

- (1) Creates eleven (11) or more lots or tracts;
- (2) Requires construction of a new street; or
- (3) Requires a **new** private access easement, serving a total of four (4) or more lots or tracts.

Subdivision, minor means any subdivision consisting of ten (10) or fewer lots or tracts and which does not require construction of a new street and which does not require a private access easement serving a total of four (4) or more lots or tracts.

Surveyor means a land surveyor licensed for practice under Chapter 4, Title 54.1 Code of Virginia.

Traffic impact statement means a statement that assesses the impact of a proposed development on the transportation system and recommends improvements to lessen or negate those impacts. The traffic impact statement shall (1) identify any traffic issues associated with access from the site to the existing transportation network; (2) outline solutions to potential problems; (3) address the sufficiency of the

future transportation networks and (4) present improvements to be incorporated into the proposed development. The traffic impact statement shall comply with the requirements contained in the Virginia Department of Transportation Traffic Impact Analysis Regulations, Chapter 155, 24 VAC 30-155-60. If a traffic impact statement is required, data collection shall be by the developer or owner and the developer or owner shall prepare the traffic impact statement. The developer or owner shall be responsible for paying all the applicable fees charged by VDOT.

Zoning ordinance means the zoning ordinance of the county.

(Ord. No. 1992-10, 11-12-92; Ord. No. 2000-4, 4-10-00; ORD-FY-08-15, 11-14-07)

Cross references: Zoning, Ch. 10.

State law references: Definitions applicable to planning and subdivisions, Code of Virginia, §§ ~~15.1-430~~ **15.2-2201**, ~~15.1-465~~ **15.2-2240**.

Sec. 8-112. Violations; penalties.

(a) Any person, including, but not limited to, landowners and their agents, violating any provision of this article shall be subject to a fine of not more than five hundred (\$500.00) for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies provided in this article.

(b) Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of this article, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation and to prevent illegal occupancy of a building, structure or premises.

(Ord. No. 1992-10, 11-12-92; Ord. No. 1998-12, 5-11-98)

State law references: Violation of statutory provisions, Code of Virginia, § ~~15.1-473~~ **15.2-2254**.

Sec. 8-113. Compliance.

No person shall subdivide any tract of land that is located within the jurisdiction of the county except in conformity with the provisions of this article and all other applicable standards. Within the jurisdiction of the Town of Blacksburg, the provisions of the Blacksburg subdivision ordinance shall apply. Within the jurisdiction of the Town of Christiansburg, the provisions of the Christiansburg subdivision ordinance shall apply.

(Ord. No. 1992-10, 11-12-92)

State law references: Single division of lot or parcel, Code of Virginia, § ~~15.1-466(k)~~ **(15.2-2241)**.

Sec. 8-114. Purpose of article.

(a) The purpose of this article is to establish certain subdivision standards and procedures for the county as provided for by Code of Virginia.

(b) These regulations and standards are part of a long-range plan to guide and facilitate the orderly, beneficial growth of the community and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purpose of these standards and procedures is to:

(1) Provide a guide for the change that occurs when lands become urban in character as a result of development for residential, business, or industrial purposes;

(2) Provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use;

(3) Make possible the provision of public services in a safe, adequate and efficient manner;

(4) Insure proper legal description and marketing of subdivided land; and

(5) Provide for orderly development in accordance with the policies of the County Comprehensive Plan and applicable zoning regulations.

(Ord. No. 1992-10, 11-12-92)

State law references: Requirement for an ordinance to assure the orderly subdivision of land and its development, Code of Virginia, § ~~15.1-465~~ **15.2-2240**.

Sec. 8-115. Variances.

(a) *Authority.* The board of supervisors may authorize a variance from any provision of this article in cases where it is determined that:

- (1) Strict adherence to the provisions of this article would result in substantial hardship or injustice;
- (2) The authorization of the variance will not be of substantial detriment to adjacent or nearby property;
- (3) The authorization of the variance will not be detrimental to the public safety, health, or welfare;
- (4) The hardship is not self-inflicted; and
- (5) The variance will not substantially compromise the intent of this article. Any variance authorized by the board of supervisors will be recorded in the minutes of the board, together with an explanation of the reasons for granting the variance.

(b) *Procedure.* All requests for variances shall be made in writing, shall explain fully the grounds for the request and shall be accompanied by the application fee. The amount of the fee shall be set from time to time by resolution of the board of supervisors.

(c) *Conditions.* When granting variances, the board of supervisors may impose conditions in order to protect public welfare or to help achieve the intent of this article. Such conditions may include, but are not limited to, requirements for:

- (1) Dedication of right-of-way for public or private streets;
- (2) Granting utility easements;
- (3) Time limits on recordation of plats for which variances have been granted;
- (4) Including a note on the plat to state that a variance has been granted and to explain the provisions of the variance; or
- (5) Dedication of open space or recreation areas.

(d) *Recommendation.* The board of supervisors shall not grant any variance without first receiving a recommendation from the planning commission.

(e) *Denial.* When a request for a variance is denied, no application may be made for the same request in less than one (1) year from the date of denial by the board of supervisors.

(Ord. No. 1992-10, 11-12-92; Ord. No. 1994-22, 12-12-94)

State law references: Variations or exceptions, Code of Virginia, § ~~15.1-466~~ **15.2-2241**.

Sec. 8-116. Amendments to article.

This article may be amended in whole or in part by the governing body, provided that such amendment shall either originate with the planning commission or be submitted to the planning commission for its recommendation; provided further, that no such amendment shall be adopted without a public hearing having been held by the board of supervisors in accordance with the requirements of the Code of Virginia.

(Ord. No. 1992-10, 11-12-92)

State law references: Amendments to subdivision ordinances, Code of Virginia, §§ ~~15.1-431~~ **15.2-2204**, ~~15.1-470~~ **15.2-2251** et seq.

Sec. 8-117. Administration.

(a) *Subdivision agents.* The board of supervisors may appoint one (1) or more agents to administer and enforce the provisions of this article.

(b) *Authority of agents.* Minor subdivisions and family subdivisions shall be approved or disapproved by an agent. An agent shall make a recommendation to the planning commission concerning approval of major subdivisions. The planning commission, in turn, shall make a recommendation to the board of supervisors concerning approval of major subdivisions. The board of supervisors will then grant or withhold final approval.

(c) *Consultation.* In the performance of his duties, an agent may request opinions from other departments or agencies in considering any plat.

(Ord. No. 1992-10, 11-12-92)

State law references: Land subdivision and development, Code of Virginia, § ~~15.1-465~~ **15.2-2240** et seq.; administration and enforcement of regulations, Code of Virginia, § ~~15.1-474~~ **15.2-2254**. Secs. 8-118--8-130. Reserved.

DIVISION 2. GENERAL PLATTING REGULATIONS*

***State law references:** Subdivision ordinance to provide for plat details, Code of Virginia, § ~~15.1-466~~ **15.2-2241**; plat of proposed subdivision and site plans to be submitted for approval, Code of Virginia, § ~~15.1-475~~ **15.2-2258**.

Sec. 8-131. Reserved.

Editor's note: Ord. No. 1998-12, adopted May 11, 1998, repealed § 8-131 which pertained to suitability of land and derived from Ord. No. 1992-10, adopted Nov. 12, 1992.

Sec. 8-132. Land subject to flooding.

Land that lies within the one hundred-year floodplain may be subdivided only if all proposed developments are in compliance with Chapter 10, Article 3, Division 2 (Flood Damage Prevention Overlay) of the county zoning ordinance. A note identifying flood zone and applicable Flood Insurance Rate Map must be included on the final plat. The location of any HUD/FEMA designated one hundred-year floodplains and related base flood elevations shall be shown on the plat. The location of any HUD/FEMA approximated one hundred-year floodplains shall be shown on the plat. For all subdivisions of five (5) or more lots or fifty (50) or more acres, base flood elevations shall be calculated and shown on the plat for any HUD/FEMA approximated one hundred-year floodplain.

(Ord. No. 1992-10, 11-12-92; ORD-FY-06-13, 11-16-05)

Sec. 8-133. Platting and recordation required.

- (a) No person shall subdivide land without recording a plat that has been prepared by a land surveyor and that complies with all provisions of this article.
- (b) No plat of any subdivision shall be recorded unless and until it has been approved by an agent or the board of supervisors.
- (c) No lot in any subdivision shall be sold or conveyed before the plat is approved and recorded.
- (d) No building permit shall be issued for any structure on a lot in a subdivision that was created in violation of any provisions of this article.

(Ord. No. 1992-10, 11-12-92; Ord. No. 1998-12, 5-11-98)

Sec. 8-134. Certification of plat.

(a) Every final plat shall contain the following statements:

- (1) A statement signed by the surveyor certifying that the subdivision is in conformance with the subdivision ordinance and zoning ordinance of Montgomery County;
- (2) A statement signed by all owners, proprietors, and trustees, properly notarized, stating that the platting or dedication or assignment of lots of the following described property (here insert a correct description of land subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors and trustees, if any; and
- (3) A statement signed by the surveyor setting forth the source of the title of the land and the place of record of the last instrument in the chain of title, giving the deed book number and page number of all tracts involved.

(Ord. No. 1992-10, 11-12-92; Ord. No. 1998-12, 5-11-98; Ord. No. 2000-4, 4-10-00)

State law references: Requisite of plat, Code of Virginia, § ~~15.1-476~~ **15.2-2259**.

Sec. 8-135. Changes in plat, etc., after approval.

No change, erasure or revision shall be made on any final plat or on accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

(Ord. No. 1992-10, 11-12-92)

The Planning Commission shall review any subdivision plat resulting in a revision to the exterior boundary lines of an approved and recorded major subdivision, where the revision could result in the creation of additional lots. The board of supervisors shall approve with modifications or disprove such plans after a recommendation has been provided by the planning commission.

Sec. 8-136. Platting fees.

There shall be a charge for the examination and approval or disapproval of every plat reviewed. **For plats requiring street naming and signage additional fees shall be charged, in accordance with Section 8-201 of the Montgomery County Code, in the amount set by ordinance of the board of supervisors.** At the time of filing the preliminary plat, the subdivider shall deposit with the agent checks payable to the treasurer of the county in the amount set from time to time by resolution of the board of supervisors.

(Ord. No. 1992-10, 11-12-92)

State law references: Fees and charges authorized, Code of Virginia, § ~~15.1-466(i)~~ **15.2-2242**.

Sec. 8-137. Vacation or relocation of boundary lines.

The agent may approve the relocation or vacation of boundary lines of any lot or parcel of land in a properly recorded plat of subdivision or resubdivision, provided such action does not involve the relocation or alteration of streets, alley, easements for public passage or other public areas, and provided further that no easement or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.

The agent shall not use this provision to increase the total number of lots in the subdivision or resubdivision above the number originally approved under the regulations and standards of this article.

(Ord. No. 1992-10, 11-12-92)

Sec. 8-138. Reserved.

Editor's note: Ord. No. 1998-12, adopted May 11, 1998, repealed § 8-138 which pertained to small lot subdivision in an agricultural zone and derived from Ord. No. 1992-10, adopted Nov. 12, 1992.

Secs. 8-139--8-149. Reserved.

DIVISION 3. IMPROVEMENT REQUIREMENTS

Sec. 8-150. Generally.

(a) All improvements required by the provisions of this article for a subdivision as platted shall be installed thereon and therein at the expense of the subdivider, his successors and assigns, and pending such installation thereof and acceptance thereof for the purpose of maintenance by a governmental entity, the subdivider, his successors and assigns shall furnish, prior to approval of the final plat, an irrevocable and continuing bond, escrow account or letter of credit in an amount approved by the agent, equal to one hundred twenty-five (125) percent of the estimated costs of such improvements calculated pursuant to all applicable standards, with corporate surety with a company authorized to do business in

the state or other equivalent security acceptable to the agent guaranteeing that the required improvements will be properly completed and maintained as required by this article. This amount is intended to cover the estimated cost of construction and administrative costs to the county. In lieu of posting a bond, escrow account or letter of credit to cover construction costs, the subdivider may construct required improvements prior to approval of the final plat. A bond for maintenance costs may still be required.

(b) The subdivider shall provide an estimate of the total costs of necessary improvements, certified by a licensed engineer. If the subdivider's bond, escrow account or letter of credit is to be renewed for an additional period of time, the agent may require a new estimate certified by a licensed engineer.

(c) In cases where specifications have been established by local ordinances and codes, such specifications shall be followed. The subdivider's bond, escrow account or letter of credit shall not be released until construction has been inspected and approved by the agent and/or the county engineer. Any improvements intended for ownership and maintenance by an agency or public utility must have been approved and accepted by the appropriate agency or public utility prior to the release. A partial release may be granted as provided for under section 8-188.

(Ord. No. 1992-10, 11-12-92)

Sec. 8-151. Design and arrangement of lots.

(a) *Size and shape.* Each lot shall meet the minimum size and minimum street frontage requirements for the zoning district in which the lot is located. Each lot shall abut streets meeting highway department right-of-way standards.

(b) *Street frontage, major and minor subdivisions.* In minor subdivisions and major subdivisions, all lots, including remainders, must abut on:

(1) An existing public street;

(2) A proposed public street to be constructed in accordance with the provisions of this article;

(3) A proposed private street, approved by the board of supervisors and to be constructed in accordance with the provisions of this article; or

(4) A proposed private access easement at least forty (40) feet in width providing access from the lot to an existing public street and to be constructed in accordance with the provisions of this article.

(c) *Street frontage, family subdivision.* All lots in family subdivisions must either meet the requirements of paragraph (b) above or have access to a public or private street by a right-of-way of at least twenty (20) feet in width.

(d) *Access to existing streets.* The number of vehicular entrances onto existing through streets shall be minimized. When several lots front on a through street, the agent may require that adjoining lots share a single driveway. When several lots front on a street with an average daily traffic volume greater than five thousand five hundred (5,500) vehicles or projected to be greater than five thousand five hundred (5,500) vehicles due to the proposed subdivision, then the agent may require that the lots be accessed by an internal service street.

(e) *Double-frontage lots.* Double-frontage and reversed-frontage lots shall be avoided, except where necessary to provide separation of residential development from major streets or to overcome specific disadvantages of topography. Where double-frontage lots are permitted, the agent may limit access to one (1) street only.

(Ord. No. 1992-10, 11-12-92; Ord. No. 1994-22, 12-12-94; Ord. No. 2000-4, 4-10-00)

Sec. 8-152. New streets.

(a) *Public streets.* New public streets are permitted in all subdivisions. Public streets shall be designed and constructed in accordance with the minimum standards of the Virginia Department of Transportation, except that the surface pavement layer shall be asphalt concrete. All site related improvements required by VDOT or the county for vehicular ingress and egress, including but not limited to traffic signalization and control shall also be designed and constructed in accordance with the minimum standards of Virginia

Department of Transportation. Street construction plans must be approved by the Virginia Department of Transportation prior to approval of the final plat.

(b) *Private streets.* In order to promote efficient utilization of land, or to reduce the number of access points to public streets, the board of supervisors may permit construction of private streets so long as such streets are not likely to inhibit future development of adjacent land. Private streets may be permitted in the following types of developments:

(1) *Commercial or industrial developments.* Approval will be based upon review of an access plan that shall include construction specifications, as well as a maintenance plan or agreement.

(2) *Townhouse developments.* Streets shall be surfaced with bituminous concrete. Approval will be based upon review of an access plan that shall include construction and pavement specifications, as well as a maintenance plan or agreement.

(3) *Single-family housing developments.* Private streets may be permitted only if the subdivision has a median lot size of three (3) acres or greater, and a length of street per lot ratio of one hundred fifty (150) feet per lot or greater. Such streets shall have a maximum grade of eighteen (18) percent and a minimum width of all-weather surface or pavement of eighteen (18) feet. Approval will be based upon review of an access plan that shall include construction specifications, as well as a maintenance plan or agreement.

(bb) *Private access easements.* Private access easements at least forty (40) [feet] in width providing ingress and egress to a dedicated recorded public street may be permitted in the Agricultural A-1 zoning district and private access easements at least twenty (20) feet in width providing ingress and egress to a dedicated recorded public street may be permitted to serve a family subdivision subject to the following:

(1) Any private access easements serving a total of three (3) or less lots or tracts shall be constructed with an all-weather surface.

(2) Any private access easements serving a total of four (4) or more lots or tracts shall be reviewed and constructed in accordance with the provisions of this article for private streets in single-family housing developments.

(3) Any plat showing a private access easements serving more than two (2) lots or tracts shall be reviewed and signed, by the Virginia Department of Transportation prior to the approval of the final plat.

(bbb) *[Ingress and egress.]* Any and all streets and private access easements providing ingress and egress that are not constructed to meet the standards necessary for inclusion in the system of state highways shall be privately maintained and shall not be eligible for acceptance into the system of state highways unless improved to current department of transportation standards with funds other than those appropriated by the general assembly and allocated by the commonwealth transportation board. A note shall be placed on all plats and deeds of subdivisions when a subdivision is served by a private street and/or a private access easement advising that the streets and access easements are not eligible for maintenance or improvements with funds allocated by either the General Assembly of Virginia or the commonwealth transportation board as required by section 8-173 and 8-174.

(c) *Cul-de-sac.* Dead-end streets shall have cul-de-sac-type turnarounds at their ends, with radius equal to the right-of-way width. Dead-end streets shall serve no more than thirty-five (35) dwelling units, unless the board of supervisors determines that terrain or other factors dictate otherwise.

(d) *Access.* New subdivisions shall have access to a street dedicated to the public or to a street shown upon a plat approved by the agent and recorded in the office of the clerk of the appropriate court.

(e) *Street identification signs.* Street identification signs of a design approved by the agent shall be installed at all intersections by the subdivider.

(f) *Reserve strips.* There shall be no reserve strips controlling access to streets.

(g) *Alignment and layout.* The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangements must be such as to cause no unnecessary hardship to owners of adjoining property when they plat and seek to provide for convenient access to their own land. Where, in the opinion of the board of supervisors, it is desirable to provide for

street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Half streets along the boundary of land proposed for subdivision are not to be permitted. Streets shall be related appropriately to the topography. Whenever possible, streets should intersect at right angles.

(h) *Traffic Impact Statement.* The subdivider shall submit with its request for a subdivision a traffic impact statement when the proposed development substantially affects transportation on state-controlled highways as defined by the Virginia Department of Transportation Traffic Impact Analysis Regulations Chapter 155, 24 VAC 30-155, et seq. The data and analysis contained in the traffic impact statement shall be acceptable to VDOT and comply with VDOT Traffic Impact Analysis Regulations 24 VAC 30-155-60 and this article. The subdivider shall submit to the agent three (3) copies of the traffic impact statement and a check made payable to VDOT to cover the review fees charged by VDOT to review the traffic impact statement. The agent shall forward the traffic impact statement along with the review fees provided by the subdivider to VDOT within ten (10) business days of receipt of a complete subdivision proposal.

(Ord. No. 1992-10, 11-12-92; Ord. No. 1998-12, 5-11-98; Ord. No. 1999-6, § 1, 5-10-99; Ord. No. 2000-4, 4-10-00; ORD-FY-07-11, 12-18-06; ORD-FY-08-15, 11-14-07)

State law references: Coordination of streets, Code of Virginia, § 15.1-466(e) **15.2-2241.**

Sec. 8-153. Water and sewage facilities.

(a) If the boundary of the subdivision lies within two hundred (200) feet of a public water or public sewer system, the subdivider shall make the necessary improvements to connect all lots to such systems; provided that any necessary easements can be secured either by the subdivider or the utility, and that the public utility has the capacity needed to serve the subdivision. The board of supervisors may permit an exception to this requirement if connection to a public system can only be achieved by crossing a highway, railway, or stream or by connection to a force main sewer line. If the subdivider intends to provide a private water system or private sewer system, the subdivider shall submit construction plans and specifications therefore, and such shall be subject to the bond and other security provisions guaranteeing construction and maintenance provided elsewhere in this article. All construction plans must be approved by the appropriate agency prior to the approval of the final plat.

(b) If there are no plans to extend public sewer or approved private sewer to the subdivision, the agent or the board of supervisors shall not approve the final plat until the subdivider provides a written statement from the health department certifying the suitability of the subdivision for private on-site sewage disposal systems. Such certification shall state that soil evaluations have been performed and that each lot to be served by a private on-site sewage disposal system meets health department requirements for such a system. The following types of lots are exempt from this requirement:

- (1) Remainders, as defined in this article;
- (2) Lots intended to contain only an existing structure with an existing approved septic system; and
- (3) Lots that are to be used only for special purposes that do not require human presence, such as power substations, radio towers, pump stations, etc. A note shall be included on the plat to specify the use of such a lot and to state that it is not approved for construction of any occupied structure.

~~(bb)~~(c) When private on-site sewage disposal systems are used in major subdivisions, each private system shall be located either within the lot it intends to serve or within green space set aside under compact development option of the zoning ordinance.

(cc) When private on-site sewage disposal systems are used in family or minor subdivisions, each system shall be located within the lot it intends to serve, within green space set aside under compact development option of the zoning ordinance, or shall have deeded access for the purpose of maintaining the sewage disposal system.

(e) (d) Within flood prone areas all public water systems and public sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. No. 1992-10, 11-12-92; ORD-FY-06-14, 11-16-05; ORD-FY-07-10, 12-18-06)

State law references: Payment for sewerage and drainage facilities, Code of Virginia, § ~~15.1-466(j)~~ **15.2-2243**.

Cross references: Fire prevention and protection, Ch. 4.

Sec. 8-154. Fire protection.

If a subdivider's water supply is adequate for fire hydrants, as determined by the agent, fire hydrants shall be provided by the subdivider. Such fire hydrants shall be located at each street intersection and at intermediate locations so that no lot is further than five hundred (500) feet by road from a fire hydrant. Such fire hydrants shall conform to health department standards.

(Ord. No. 1992-10, 11-12-92)

Sec. 8-155. Utilities.

(a) All new or extended power lines, telephone lines, and other public utilities shall be installed underground, except that:

- (1) Equipment normally installed above ground, such as transformers, may be so installed;
- (2) Temporary overhead facilities required for construction are permitted;
- (3) Subdivisions of three (3) lots or less may be served by overhead facilities; and
- (4) Commercial or industrial subdivisions may be served by overhead facilities if a letter is submitted from the utility company stating that underground installation is not feasible.

(b) Utility easements of not less than fifteen (15) feet in width shall be provided for water, sewer, electric power, telephone lines, and other utilities. Easements shall be provided along all lot lines, including street right-of-way lines, unless an alternate arrangement is approved by the agent or the board of supervisors. Easements are not required on remainders.

(c) Within flood-prone areas, all utilities shall be located and constructed to minimize or eliminate flood damage.

(d) In commercial or industrial subdivisions, power lines shall be installed so as to facilitate installation of street lights.

(Ord. No. 1992-10, 11-12-92)

State law references: Flood control, Code of Virginia, § ~~15.1-466(d)~~ **15.2-2243.1**; public utilities, Code of Virginia, § ~~15.1-466(e)~~ **15.2-2243**.

Sec. 8-156. Drainage.

(a) The subdivider shall make adequate provisions for storm and floodwater runoff, including the installation of all necessary drainage improvements and the dedication of all necessary drainage easements. Such easements shall be at least fifteen (15) feet in width. The county engineer, with the assistance of the agent, has the authority, in all cases, to determine the adequacy of proposed drainage improvements and easements. In addition, the county engineer, with the assistance of the agent, may require:

- (1) Drainage easements through adjoining property to be provided by the subdivider.
- (2) Low-lying lands along watercourses subject to flooding or overflowing during storm periods to be preserved and retained in their natural state of drainageways.

(b) If a subdivision involves new streets, the subdivider shall submit to the Virginia Department of Transportation all necessary information for the determination that adequate provision for storm and floodwater will be made. Written approval by the Virginia Department of Transportation of the drainage plans shall be submitted to the agent prior to the approval of the final plat.

(c) When required by Chapter 8, Article III of the Montgomery County Code, the subdivider must submit a soil erosion and sediment control plan. Such plan must be approved by the plan-approving authority prior to approval of the final plat.

(Ord. No. 1992-10, 11-12-92; ORD-FY-06-15, 11-16-05)

State law references: Drainage and flood control, Code of Virginia, § 15.1-466(d) **15.2-2241**.

Sec. 8-157. Stormwater detention facilities in residential subdivisions.

(a) The design for all stormwater detention facilities shall be in accordance with professionally accepted hydraulic engineering practices, the *Virginia Erosion and Sediment Control Handbook* or any later comparable source.

(b) Stormwater detention facilities shall be located in perpetual, unobstructed public easements of appropriate width. They shall be shown on the subdivision plat. They shall be constructed in accordance with accepted construction standards and specifications.

(c) Approval by the county of the stormwater detention facilities shall be conditioned upon an agreement being entered into between the county and the homeowners association, whereby the homeowners association assumes all liability for the maintenance and operation of the stormwater detention facilities. A homeowners association responsible for such facilities must have the authority to levy assessments for maintenance and the authority to place a lien against property for unpaid assessments. The county attorney shall review the articles of incorporation and bylaws of an association before the county enters into any agreement with the association.

(Ord. No. 1992-10, 11-12-92; Ord. 1994-22, 12-12-94)

Sec. 8-158. Land set aside for public purposes.

Subdividers may be required to set aside land for public and semipublic uses, such as for libraries, municipal buildings, schools and the like, on a reimbursement basis. They shall not be required to hold the land longer than the date of approval of the final plat. Prior to approval of any major subdivision, the agent shall request information from the county administrator regarding public needs in the area.

(Ord. No. 1992-10, 11-12-92)

Sec. 8-159. Land dedicated for public purposes.

Subdividers may dedicate land for parks, playgrounds and open space. Such land shall be suitable for the purpose of which it is dedicated. If approved by the board of supervisors under the provisions of the zoning ordinance, subdividers who dedicate such land may be allowed to decrease the minimum lot area of individual lots. In no case shall the subdivider be allowed to increase the overall density of the subdivision beyond the density allowed in the county zoning ordinance.

(Ord. No. 1992-10, 11-12-92)

State law references: Monuments, Code of Virginia, § 15.1-466(g) **15.2-2241**.

Sec. 8-160. Monuments.

(a) Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the agent are clearly visible for inspection and use. Such monuments shall be installed by the subdivider. All monuments must include enough metal that they can be located with a metal detector.

(b) Lot corners, street corners, points where streets intersect the exterior boundaries of the subdivision, and points of curve on streets shall be marked with iron rods or other permanent material. Monuments shall be not less than five-eighths (5/8) inch in diameter and approximately twenty-four (24) inches long, and shall be driven so as to be flush with the finished grade.

(Ord. No. 1992-10, 11-12-92)

Secs. 8-161--8-170. Reserved.

DIVISION 4. APPROVAL PROCESS

Sec. 8-171. Generally.

(a) All preliminary and final plats shall be approved or disapproved by the agent, the planning commission, or the board of supervisors in accordance with the provisions of § 15.2-2258 of the Code of Virginia. In the event that approval of a feature or features of a plat by a state agency is necessary, the agent shall forward the subdivision submission within ten (10) business days of receipt of a completed submission and applicable VDOT fees to the appropriate state agency or agencies for review. Requirements for review including time limitations shall be in accordance with the provisions of § 15.2-2222.1 and § 15.2-2260 of the Code of Virginia, as applicable. Upon approval of a final plat, the agent or the chairman of the board of supervisors and the chairman of the planning commission shall sign the plat before it is recorded.

(b) All plats and surveys shall conform to the standards and procedures for land boundary surveying, as adopted by the board for architects, professional engineers, land surveyors and landscape architects, pursuant to the Code of Virginia.

(c) A survey of the land to be subdivided, showing the number, area, and dimensions of all lots, is required for all subdivisions except that in subdivisions where one (1) lot of twenty (20) acres or larger is not to be immediately conveyed, that one (1) tract shall be considered a "remainder" and need not be included in the survey. However, a sketch map showing the approximate boundaries of the entire property, including the remainder, shall be recorded with the required plat. The sketch map shall have sufficient detail to show that the remainder meets minimum road frontage requirements and shall also give the approximate acreage of the remainder.

(Ord. No. 1992-10, 11-12-92; Ord. No. 1998-12, 5-11-98; ORD-FY-08-15, 11-14-07)

Sec. 8-172. Preliminary plat for minor subdivisions and family subdivisions.

Preliminary plats are not required for minor subdivisions or family subdivisions.

(Ord. No. 1992-10, 11-12-92)

State law references: Preliminary plat, Code of Virginia, § ~~15.1-466(f)~~ **15.2-2241**.

Sec. 8-173. Preliminary plat, major subdivisions.

(a) The subdivider shall submit three (3) copies of a preliminary plat to the agent. Preliminary plats must be drawn to scale and shall contain the following items:

(1) When the parcel to be subdivided is located within a previously platted subdivision, the name of such subdivision. When the property is not located within a previously platted subdivision, either the proposed name of the subdivision or the locally known name of the property.

(2) The name and address of the legal owner, date of purchase, previous owner and, if the deed is recorded, deed book and page number and plat book and page number. If the subdivider is other than the owner, the name and address of the subdivider shall also be given. When the legal owner or the subdivider is a corporation, then the name and address of the chief officer of the corporation shall also be given.

(3) The name and address of any surveyor, engineer or other professional involved in the plat design and preparation.

(4) Delineation of any existing and proposed easements and rights-of-way affecting the use of the property.

(5) The location of the proposed subdivision by an inset map at a scale of not less than two (2) inches equal one (1) mile, showing adjoining roads, their names and numbers, towns, subdivisions, true north arrow and other landmarks.

(6) Location of the property by tax parcel map number, parcel ID number, zoning district magisterial district, north arrow, with source of meridian, date of drawing, number of sheets and graphic scale.

(7) Location and dimensions of property lines, location of building setback lines, total acreage, acreage of subdivided area, acreage of dedicated right-of-ways, number and approximate area and frontage of all lots, existing buildings within the boundaries of the tract and names of owners and their property lines within the boundaries of the tract and adjoining such boundaries.

- (8) All existing, platted and proposed streets, their names, numbers and widths; existing utility or other easements; public areas; culverts, drains and watercourses and their names; and other pertinent data.
- (9) All parcels of land to be dedicated for public use and the conditions of such dedication.
- (10) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.
- (11) Provisions for collection and discharging surface drainage.
- (12) Location of any lot to be designated as a remainder, as defined in this article.
- (13) Any additional data deemed necessary by the agent, such as topography.
- (14) Table listing acreage and frontage for each lot.
- (15) Table of assignment of lots under sliding scale, if applicable.
- (16) Location of lands within the one hundred-year floodplain and base flood elevations when required.
- (17) Location of any grave, object or structure marking a place of burial.
- (18) Whenever a lot or tract involved in a subdivision is within an agricultural and forestal district a note shall be placed on the plat and on the deeds of subdivision stating "The property depicted hereon lies within an agricultural and forestal district and shall abide by the requirements set forth in section 2-41 of the Montgomery County Code. This property is not eligible for subdivision until (district renewal date), and shall only be eligible for division if the lot or tract is removed in accordance with Montgomery County Code."**
- (19) Whenever a lot or tract involved in a subdivision is within a conservation easement, a notation shall be placed on the plat identifying the lots or tracts affected.**
- (20) Whenever a lot or tract involved in a subdivision is within the dam inundation zone, a notation shall be placed on the plat identifying the lots or tracts affected.**
- (21) Location of all drainage easements, utility easements, sewer lines, water lines, gas lines, power lines, manholes, or fire hydrants.**

~~(18)~~ **(22)** Whenever a subdivision is to be served by private streets or private access easements a note shall be placed on the plat and on the deeds of subdivision stating "The streets and/or private access easements in this subdivision do not meet the standards necessary for inclusion in the system of state highways and shall not be maintained by the department of transportation or the County of Montgomery and are not eligible for rural addition funds or any other funds appropriated by the General Assembly of Virginia and allocated by the commonwealth transportation board".

(b) The agent shall make a recommendation to the planning commission concerning approval or disapproval of the preliminary plat. The commission shall then approve or disapprove the preliminary plat.

(c) The commission shall advise the subdivider in writing of approval or disapproval of the preliminary plat. In the case of disapproval, the commission shall state the reasons for disapproval and notify the subdivider of all changes needed to make the plat acceptable. Approval by the commission of the preliminary plat does not constitute a guarantee of approval of the final plat.

(d) The subdivider shall submit a final plat within one (1) year of the approval of a preliminary plat. Failure to do so shall make the preliminary plat null and void. The commission may, on written request from the subdivider, grant an extension of this time limit.

(e) The approval of a preliminary plat is valid for five (5) years provided a final subdivision plat for all or a portion of the property is submitted and diligently pursued. The five year period shall be based upon the date of the last recorded plat.

(Ord. No. 1992-10, 11-12-92; Ord. No. 2000-4, 4-10-00; ORD-FY-06-16, 11-16-05; ORD-FY-07-11, 12-18-06)

Cross references: Zoning, Ch. 10. 15.2-2260, 15.2-2224 A1.

Sec. 8-174. Final plat, minor subdivisions and family subdivisions.

(a) The subdivider shall submit two (2) copies of a final plat to the agent. Each plat shall contain the following items:

- (1) All certifications required by section 8-134;
- (2) A note identifying the plat as either a minor subdivision or a family subdivision;
- (3) Location of all existing easements and any new easements required under the provisions of this article;
- (4) Location of approved septic drainfields and reserve areas. Location of existing dwellings and their septic drainfields and reserve areas;
- (5) Any additional data deemed necessary by the agent, such as topography;
- (6) A space for the agent to sign the plat.
- (7) Table of assignment of lots under sliding scale, if applicable.
- (8) Location of lands within the one hundred-year floodplain.
- (9) Location of any grave, object or structure marking a place of burial.

(10) Whenever a lot or tract involved in a subdivision is within an agricultural and forestal district a note shall be placed on the plat and on the deeds of subdivision stating "The property depicted hereon lies within an agricultural and forestal district and shall abide by the requirements set forth in section 2-41 of the Montgomery County Code. This property is not eligible for subdivision until (district renewal date), and shall only be eligible for division if the lot or tract is removed in accordance with Montgomery County Code."

(11) Whenever a lot or tract involved in a subdivision is within a conservation easement, a notation shall be placed on the plat identifying the lots or tracts affected.

(12) Whenever a lot or tract involved in a subdivision is within the dam inundation zone, a notation shall be placed on the plat identifying the lots or tracts affected.

(13) Location of all drainage easements, utility easements, sewer lines, water lines, gas lines, power lines, manholes, or fire hydrants.

~~(10)~~ **(14)** Whenever a subdivision is to be served by private streets or private access easements a note shall be placed on the plat and on the deeds of subdivision stating "The streets and/or private access easements in this subdivision do not meet the standards necessary for inclusion in the system of state highways and shall not be maintained by the department of transportation or the County of Montgomery and are not eligible for rural addition funds or any other funds appropriated by the General Assembly of Virginia and allocated by the commonwealth transportation board".

(aa) If a proposed subdivision is using the family exemption provision, in addition to the above requirements, the following must also be included:

(1) A note stating "Approval of this subdivision is subject to the condition that the parcel subdivided can only be conveyed to a member of the immediate family as set forth in Montgomery County's Subdivision Ordinance, as amended, and the Code of Virginia, as amended. Conveyance to any other person or entity not an immediate family member voids approval. This restriction does not apply to subsequent reconveyance".

(2) Signed affidavits that are available in the county planning department stating that the family subdivision is for the passing of real property interest from one family member to another, rather than for the purpose of short-term investment.

(3) A copy of the proposed deed(s) conveying the property from one family member to the other.

(4) A description of the family relationship in the consent statement or the following shown and notarized on the plat: "I _____, do hereby verify that _____ is my legal _____. New tract _____ is being conveyed to _____."

(b) When all requirements of this article have been met, the agent shall sign the plat to indicate that it is approved for recordation.

(c) It shall be the responsibility of the subdivider to file the approved final plat with the office of the clerk of the appropriate court within six (6) months after final approval; otherwise, the agent shall mark such plat "void" and notify the office of the clerk of the appropriate court. At the same time of filing of the final plat, the subdivider shall record the agreement of dedication and such other legal documents as the local government attorney requires to be recorded.

(Ord. No. 1992-10, 11-12-92; Ord. No. 1994-22, 12-12-94; Ord. No. 1998-12, 5-11-98; Ord. No. 2000-4, 4-10-00; ORD-FY-07-11, 12-18-06; ORD-FY-07-12, 12-18-06)

State law references: Filing final plat for recordation, Code of Virginia, § ~~15.1-466(h)~~ **15.2-2241**.

Sec. 8-175. Final plat, major subdivisions.

(a) The subdivider shall submit two (2) paper copies of a final plat along with a digital copy in a format approved by the department. Each plat shall contain the following items:

- (1) All items required in the preliminary plat, unless exempted by the agent;
- (2) All certifications required by section 8-134;
- (3) Location of approved septic drainfields and reserve areas. Location of existing dwellings and their septic drainfields and reserve areas;
- (4) A space for the chairman of the board of supervisors and the chairman of the planning commission, and the subdivision agent and the county engineer to sign the plat.

(b) When all requirements of this article have been met, the chairman of the board of supervisors and the chairman of the planning commission shall sign the plat to indicate that it is approved for recordation.

(c) It shall be the responsibility of the subdivider to file the approved final plat with the office of the clerk of the appropriate court within six (6) months after final approval; otherwise, the agent shall make such plat "void" and notify the office of the clerk of the appropriate court. At the same time of filing of the final plat, the subdivider shall record the agreement of dedication and such other legal documents as the local government attorney requires to be recorded.

(d) In order to allow phased development of a subdivision, a subdivider may submit a final plat and construction plans for a portion of a subdivision described in an approved preliminary plat.

(Ord. No. 1992-10, 11-12-92; Ord. No. 1994-22, 12-12-94; Ord. No. 1998-12, 5-11-98; ORD-FY-06-16, 11-16-05)

Secs. 8-176--8-185. Reserved.

DIVISION 5. COMPLETION AND MAINTENANCE OF REQUIRED IMPROVEMENTS

Sec. 8-186. Dedications to be free of liens and encumbrances; delineations of dedications to be maintained by subdivider.

(a) All dedications, whether voluntary or involuntary, shall be free of all liens and encumbrances.

(b) The agent shall prescribe all dedicated improvements within a subdivision which shall be maintained by the subdivider until such times as the same shall be accepted for maintenance by a governmental entity. The subdivider shall, if required by the agent, delineate upon the final plat all dedications to the public which shall be required to be so maintained.

(Ord. No. 1992-10, 11-12-92)

Sec. 8-187. Failure to complete improvements.

Where a bond, escrow account or letter of credit has been posted and required improvements have not been installed to the required specifications within the time specified, the agent may thereafter declare the bond, escrow account or letter of credit to be in default and require payment thereunder to provide for the completion of all the improvements to be installed, regardless of the extent of the building development at the time of declared default.

(Ord. No. 1992-10, 11-12-92)

Sec. 8-188. Conditions for acceptance of dedication offers or reduction or release of bonds, escrow accounts or letters of credit.

Neither acceptance of offers of dedication or required improvements shall be accepted, nor release of bonds, escrow accounts or letters of credit shall take place, until the agent has determined that all required improvements have been approved and accepted by the appropriate agency or public utility. A partial release may be granted according to the requirements of the Code of Virginia.

(Ord. No. 1992-10, 11-12-92)

Secs. 8-189--8-199. Reserved.

ARTICLE V. STREET NAMES; NUMBERS FOR HOUSES AND LOTS

Sec. 8-200. Definition, street.

For the purposes of this article, the word "street" shall mean a highway, street, avenue, boulevard, road, lane, alley or any way which provides unrestricted ingress and egress by the public.

(Ord. No. 1990-5, 1-22-90)

Sec. 8-201. Street names.

(a) All street names within the unincorporated areas of the county shall be approved by the board of supervisors. Proposed streets, which are obviously a continuation of other existing and named streets, shall bear the names of the existing streets. In no case shall the names of proposed streets duplicate existing names, irrespective of the use of the suffix "street," "avenue," "boulevard," "driveway," "place," "lane" or "court." Street names shall be indicated on all plats of survey. Names of existing streets shall not be changed except by approval by the board of supervisors.

(b) The names of the streets as shown on the official map of Montgomery County, as adopted by the board of supervisors, shall be the true names of the streets within the county.

(c) County initiated street names:

When the county becomes aware (through building permits or other information) that an unnamed street has three or more active residences or businesses on it, then the county shall advise the residences/businesses in writing that they may petition the board of supervisors to name their street. If the residences/businesses do not initiate a petition at this time, then the county may elect to wait until six or more residences are on the unnamed street. When the county becomes aware that an unnamed street has six or more residences on it, the the board of supervisors shall approve a street name and advise residents/businesses of their new address. Under county initiated street names, the cost of the streets signs and mapping changes shall be borne by the county.

(d) Citizen initiated street names:

Persons wishing to change an existing street name or persons wishing to name a street with less than three residences/businesses on it must provide the following to the county:

- 1. Petition signed by all residences/businesses on the street or if there are no residences/businesses on the street, then a petition signed by all abutting property owners.**
- 2. Payment in the amount set by resolution of the board of supervisors.**

The board of supervisors shall then consider and act on such petitions provided the name requested does not conflict with county policy.

Under citizen initiated street names, the cost of the street signs and mapping changes shall be borne by the persons requesting the change.

(e) New subdivisions:

New street names in subdivisions shall be approved by the board of supervisors as part of the final plat approval process. Prior to signing the final plat, the subdivision shall pay the county an amount set by the board of supervisors per intersection where a street sign will be erected.

With new subdivisions, the cost of the street signs and mapping changes shall be borne by the subdivider.

(f) Reserved street names

Where a street has not been named because it has less than three residences/businesses on it, but it is anticipated that it will have more residences/businesses in the new future, then a; petition may be presented to the county signed by all residences/businesses on the street, then the petition shall be signed by all abutting property owners requesting that a particular name be reserved.

If the requested street does not conflict with county policy, then the name may be reserved by the board of supervisors for a period of up to one year. Extension of the street name reservation beyond the initial time period shall require a new board action.

(Ord. No. 1990-5, 1-22-90)

Sec. 8-202. Street name signs.

At a suitable corner of all streets there shall be placed a standard street sign, as approved by the county administrator, designating the names of such streets.

(Ord. No. 1990-5, 1-22-90)

Sec. 8-203. Street numbers for buildings.

(a) Houses and other buildings located on streets in the county shall be numbered according to the centenary and quadrant plan. Beginning at the axis of reference and moving therefrom, the buildings and lots upon any particular street shall be numbered from one hundred (100) upwards, allowing (generally) one (1) number for every twenty-five (25) feet. A new hundred shall be begun whenever the particular street is crossed by another street.

(b) Even-numbered addresses are on the north and east sides of streets, and odd numbers are on the south and west sides of streets.

(c) The system is based on a uniform grid, with the origin point at the Virginia South Zone State Plane Coordinates of 3590900 Northing and 10933000 Easting. These coordinates are based on the North American Datum of 1983 (NAD 83).

(d) Blocks will be adjusted to change at intersections where the intersection is within two hundred (200) feet of an existing grid line. When intersections are not available or are farther than two hundred (200) feet from the grid line, the block will change at the point the grid line intersects the road being numbered.

(Ord. No. 1990-5, 1-22-90)

Sec. 8-204. Assignment of numbers; rules, regulations and map.

The county administrator shall promulgate rules and regulations as necessary to administer this article. The county administrator and designated officials shall assign the proper numbers for houses and other buildings and shall keep a map showing such numbers.

(Ord. No. 1990-5, 1-22-90)

Sec. 8-205. Reserved.

Sec. 8-206. Display of number.

Each property owner shall display on his house, mailbox, or at such other location that is readily visible from the street the number that has been assigned to the particular house or building. The number shall be a minimum of four (4) inches in height. Any person who shall refuse to number his house according to this section, or shall interfere with the execution of such numbering, shall be guilty of a class 4 misdemeanor.

(Ord. No. 1990-5, 1-22-90)

Sec. 8-207. Mobile home park identification.

Each mobile home park shall have an identification system consisting of a logical sequential pattern of numbering lots. Such numbers shall be displayed on a permanent marker placed on the mobile home site fronting the street or accessway to the site. Such numbers shall be visible from the street or accessway.

(Ord. No. 1990-5, 1-22-90)