

JASON CAPELLE, DISTRICT 1
GEORGE YANCEY, DISTRICT 2
DONALD BROOKS, DISTRICT 3
JULIE ZEIJLMAKER, DISTRICT 4
JIM HUTCHISON, DISTRICT 5



SANDRA THORNTON
PLANNING SERVICES MANAGER

MAILING ADDRESS:
128 WEST MAIN STREET
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Orange County Planning Commission Agenda
Gordon Building
112 West Main Street, Orange, Virginia 22960
Thursday, January 2, 2020 – 6:00 p.m.

1. Call to Order and Determination of Quorum
2. Election of Chair and Vice Chair; appointment of secretary
3. Approval of Agenda
4. Approval of Minutes
 - a. November 7, 2019 regular meeting
5. Public Comment
6. Public Hearings
 - a. **ZTA 19-04:** The Orange County Board of Supervisors proposes to amend the Code of Orange County, **Section 70-244 (a)** regarding the expansion of nonconforming residential and non-residential structures in the Agricultural (A) District. The purpose of the proposed amendment is to allow owners of smaller structures an opportunity for a potentially greater expansion or enlargement of size than allowed under current regulations.
 - b. **ZTA 19-05:** The Orange County Board of Supervisors proposes to amend the Code of Orange County, **Section 70-71 Administrative variance** by adding provisions to permit the Zoning Administrator to grant variances for reasonable modifications to property or improvements which are to benefit a person or persons covered by the State or Federal Fair Housing law or the Americans with Disabilities Act. The purpose of the amendment is to bring county regulations into compliance with the Code of Virginia.
 - c. **ZTA 19-06:** The Orange County Board of Supervisors proposes to amend the Code of Orange County, **Section 70-551** under the provisions of the Barboursville Village Overlay District. The purpose of the amendment is to increase membership on the Barboursville Village Overlay District Advisory Committee from three (3) to five (5) members, with three (3) members residing or owning real estate in the Barboursville Village Overlay District.

- d. **SUP 19-05:** Mark and Jill Thorburn have applied for a Special Use Permit to operate The Icebox Creamery, a seasonal business, from a permanent structure at 4324 Germanna Highway, the site of Lake of the Woods Car Wash. The property is identified as Tax Map Parcel 12A-17-1 and is situated in the Germanna-Wilderness Area Plan Subarea Five: Lake of the Woods

7. Worksession

- a. Blue Ridge Virtual Governor's School Legacy Project – James Deane
 - i. Adaptive Reuse Policies

8. New Business – (none)

9. Old Business – (none)

10. Reports

- a. Board of Supervisors report – Jim Crozier
- b. Planning Services report – Sandra Thornton

11. Commissioner Comments

12. Next meeting date – February 6, 2020

13. Adjourn

Unless otherwise indicated, agenda items will be taken in the order in which they appear above. The planning Commission reserves upon itself the right to amend a meeting agenda at any point and with any frequency prior to adoption of said agenda, pursuant to any required public notice. Time limits may be imposed by the Chairman for speakers addressing the Commission.



**Orange County Planning Commission
Regular Meeting
January 2, 2020**

Agenda Item 4a

Orange County Planning Commission
Regular Meeting
Gordon Building Meeting Room
112 W. Main Street, Orange, VA 22960
Thursday, November 7, 2019

Present: George Yancey (Chair); Donald Brooks (Vice Chair); Jason Capelle; Jim Hutchison; Julie Zeijlmaker, James Crozier, BOS Representative

Absent:

Staff Present: Sandra Thornton, Planning Services Manager, Tracey Newman, Planning Services Associate, Eric Lansing, Assistant County Attorney

1. Call to order and determination of quorum:

Chairman Yancey called the meeting to order at 6:01 pm.

2. Approval of agenda:

Mr. Brooks requested that an Executive Closed Session be added to the agenda. Chairman Yancey added the item to the agenda as item ten (10).

Mr. Hutchison made a motion to approve the amended agenda. Motion was seconded by Mr. Brooks and carried 5-0.

3. Approval of minutes:

A. October 17, 2019 regular meeting:

On the motion of Mr. Hutchison, seconded by Mr. Brooks, the minutes were accepted as presented on a vote of 5-0.

4. Public comment:

Chairman Yancey opened the floor for public comment. No one came forward and public comment closed.

5. Public hearings

- a. **ZTA 19-03:** The Orange County Board of Supervisors proposes to amend the Code of Orange County, by a comprehensive rewrite of **Section 70-38** regarding zoning violations and by adding **Section 70-38.1 Civil Penalties** and **Section 70-38.2 Criminal penalties**.

Mr. Lansing reviewed the text amendment and explained that the purpose is to add provisions for civil penalties for most zoning violations as well as provide for criminal penalties in specific instances. He pointed out that handling violations based on civil penalties would be easier than the current criminal process and would be expected to facilitate compliance. Based on Ms. Zeijlmaker's inquiry, Mr. Lansing confirmed that civil violations will not go on the record of the violator.

On the motion of Mr. Brooks, seconded by Mr. Hutchison, the Planning Commission voted 5-0 to recommend approval of ZTA 19-03 to the Board of Supervisors.

Ayes: Zeijlmaker, Hutchison, Capelle, Yancey, Brooks Nays: none

6. Work session:

None

7. New Business

None

8. Old business:

None

9. Reports:

A. Board of Supervisors Report – Jim Crozier

Mr. Crozier advised that two (2) broadband grant challenges have been addressed and confirmed the challenges came from Comcast and Virginia Broadband. He discussed the pending construction entrance to the Madison solar project. In addition, Mr. Crozier reported that he anticipates construction of the new Public Safety Building being completed by September 2020.

B. Planning Services Report – Sandra Thornton

Ms. Thornton advised there have been no applications filed for the next meeting but that a zoning text amendment pertaining to variances for situations involving Americans with Disabilities Act needs was anticipated. Mr. Brooks inquired about meeting signs and site visits. Mrs. Thornton verified that she personally goes to sites and puts up meeting notice signs. She advised that an updated Planning and Zoning Report would be forthcoming.

10. Closed Meeting

Mr. Lansing read the following motion authorizing the Closed Meeting:

WHEREAS, the Planning Commission of Orange County desires to discuss in Closed Meeting the following matter:

Discussion or consideration of assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers or employees of the Planning Department.

WHEREAS, pursuant to: 2.2-3711(A)(1) of the Code of Virginia such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of Orange County does hereby authorize discussion of the aforesaid matters in Closed Meeting.

Ayes: Capelle, Brooks, Yancey, Zeijlmaker, Hutchison. Nays: none

Upon conclusion of the Closed Meeting, Chairman Yancey called the regular meeting back to order. Mr. Lansing polled the Commissioners asking whether, to the best of each member's knowledge, (i) only such public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body:

Ayes: Brooks, Zeijlmaaker, Hutchison, Capelle, Yancey Nays: none

11. Commissioner comments

None

12. Next meeting date – December 5, 2019

Upon the motion of Mr. Hutchison, which was seconded by Mr. Brooks and carried on a vote of 5-0, the meeting was adjourned at 7:30 pm.

George Yancey, Chair

Planning Commission Secretary

The events of this meeting were captured via digital audio recording. These written minutes shall serve as the official record of actions taken during the meeting.



**Orange County Planning Commission
Regular Meeting
January 2, 2020**

Agenda Item 6a, b, c

ORANGE COUNTY
PLANNING SERVICES

COMMUNITY DEVELOPMENT
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



OFFICE: (540) 672-4347
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MEMORANDUM

TO: Orange County Planning Commission
FROM: Sandra B. Thornton, Planning Services Manager *sbt*
DATE: December 20, 2019
SUBJECT: ZTA 19-04, 19-05, 19-06

Please consider Bryan David's memo dated December 17, 2019, which accompanies the text of the proposed zoning text amendments, the staff report on these matters. Mr. David will present the proposed amendments at the January 2, 2020, public hearing.

ORANGE COUNTY, VIRGINIA
OFFICE OF THE COUNTY ADMINISTRATOR

R. BRYAN DAVID
COUNTY ADMINISTRATOR

bdavid@orangecountyva.gov
PHONE: (540) 672-3313
FAX: (540) 672-1679
orangecountyva.gov



MEMORANDUM

MAILING ADDRESS:
P. O. Box 111
ORANGE, VA 22960

PHYSICAL ADDRESS:
112 WEST MAIN STREET
ORANGE, VA 22960

DATE: December 17, 2019
TO: Orange County Planning Commission
FROM: R. Bryan David
County Administrator 
RE: Draft Zoning Text Amendments

At the Board of Supervisors meeting on November 13th, the County Attorney presented three (3) proposed Zoning Ordinance text amendments. These text amendments had been under discussion by members of the Board, the County Attorney, and staff. The information about each of the proposed text amendments follows and copies of the redline and blackline drafts are attached for your reference:

Section 70-244(a) Expansion or enlargement of nonconformities – The proposed text amendment will address the expansion of nonconforming residential and non-residential structures in the Agricultural (A) District. These structures are nonconforming because the existing structure was built prior to the adoption of the Zoning Ordinance and do not meet the setback area or yard distance from property lines or road rights of way required in the Agricultural (A) District.

This issue often presents itself when a Zoning Permit and Building Permit are sought to expand an existing structure and the proposed expansion area is greater than fifty percent (50%) of the original footprint of the residential non-conforming structure. For nonresidential structures which are often church buildings, the expansion area is limited to twenty-five percent (25%) of the existing structure's footprint. Often the footprint sizes for these existing non-conforming structures are small, and thereby the zoning imposed percentage limitation reduces or prevents what could be a usable and functional addition to the structure.

For purposes of this discussion, the footprint is the total square footage of the structure using the linear measurement from the outside of all exterior walls and supporting columns including deck areas. The Zoning Ordinance does not define the term *footprint* though it is used in Section 70-244(a).

It is important to note that the new portion of the existing structure constituting the enlargement or expansion may be no closer to the affected property line or lines than the nonconforming portion of the structure.

The proposed amendment would allow existing residential or non-residential structures to be expanded or enlarged by no more than fifty percent (50%) or twenty-five percent (25%), respectively, or by *fifteen hundred (1,500) square feet, whichever is greater*. This will give owners of smaller structures an opportunity for a reasonable expansion or enlargement size.

In the event a property owner wants an expansion or enlargement of a non-conforming structure greater than what is permitted by right under this proposed amendment, the property owner still may pursue a variance from the Board of Zoning Appeals. Nor does this proposed amendment prevent the property owner from pursuing a variance if the setback area or yard distance from property lines or road rights of way cannot be met by the expansion or enlargement. Essentially, a property owner continues to have the ability to pursue relief from these provisions of the Zoning Ordinance by means of a variance as may be approved or denied by the Board of Zoning Appeals.

Sec. 70-71. - Administrative variance – The proposed text amendment will permit the Zoning Administrator the authority to grant variances for reasonable modifications to property or improvements which are to benefit a person or persons covered by State or Federal fair housing law or the American with Disabilities Act. The Code of Virginia was recently amended to require the Board of Zoning Appeals to grant this same class of variance. The proposed text amendment transfers the Board of Zoning Appeals' authority to Zoning Administrator.

Essentially, the person or persons would need not apply to the Board of Zoning Appeals for such a variance and wait for the BZA to hold a public hearing to grant a required variance. It makes the process administrative and thus saving time and expense for the property owner.

It should be noted the variance is only for the benefit of the person or persons covered by the State or Federal fair housing law or the American with Disabilities Act. Once these people no longer are benefiting from the property or improvement modification permitted by the variance, then such property or improvement modification is to be removed or otherwise rendered no to be longer in use.

The most common instance for these types of variance will be access ramps, porches, covered walkways, and the like to access the primary structure.

Sec. 70-551. - Establishment and Applicability – The proposed text amendment is under the provisions of the Barboursville Village Overlay District which establish the Barboursville Village Overlay District Advisory Committee (BVODAC). This amendment increases the committee's membership from three (3) members to five (5) members with three (3) members residing or owning real estate in the Barboursville Village Overlay District.

The BVODAC provides the Zoning Administrator with comments on all site plans or development proposals with the District. The BVODAC operates under guidelines which set forth the process of reviewing site plans and development proposals. Copies of the BVOD and the BVODAC are attached for your reference.

The proposed text amendments are being advertised for public hearings at the Planning Commission's meeting on January 2nd. The proposed text amendments are also being advertised for public hearings at the Board of Supervisors meeting on January 28th.

If you should have any questions or would like to discuss these proposed amendments prior to the Planning Commission's January 2nd meeting, please contact me. I will attend the meeting to represent these proposed text amendments.

cc: Orange County Board of Supervisors
Sandra Thornton, Planning Services Manager
Tom Lachene, County Attorney
Eric Lansing, Assistant County Attorney
Tracey Newman, Planning Services Associate

Section 70-244(a) Expansion or enlargement of nonconformities
(redline_blackline versions)

1 **Article III - Nonconformities**

2
3
4 **Sec. 70-244. - Expansion or enlargement.**

5
6 (a) A nonconforming structure or use may be expanded or enlarged only in conformance with the
7 requirements of this chapter. If a structure is nonconforming due to encroaching on a setback
8 area or required yard, it may be expanded or enlarged provided the new portion of the structure is
9 no closer to the affected property line than the nonconforming portion. Such an expansion or
10 enlargement of a residential structure may be up to 50% of the original footprint of the
11 nonconforming structure. Such an expansion or enlargement of a nonresidential structure may be
12 up to 25% of the original footprint of the nonconforming structure.

13
14 Within the Agricultural (A) District, such an expansion or enlargement of a residential or
15 nonresidential structure may be up to the above-listed percentages or fifteen hundred (1,500)
16 square feet, whichever is greater.

17
18 (b) A nonconforming use if changed to a conforming use, shall not thereafter be reverted back to
19 any nonconforming use. A nonconforming use may, by special exception approved by the Board
20 of Supervisors, be changed to another nonconforming use, provided that the proposed use does
21 not detract from the character of the zoning district to a greater degree than the existing
22 nonconforming use.

23
24 (c) A nonconforming use may be extended throughout any part of a structure or parcel which
25 was arranged or designed for such use at the time of enactment or amendment of this chapter.
26 Any expansion of the use beyond this shall only be in conformance with the requirements of the
27 underlying zoning district.

28
29 (d) The refacing of a lawful nonconforming sign, with or without a digital component as
30 otherwise provided for in this chapter, shall not be considered an expansion of a nonconforming
31 use or an increase in intensity.

32
33 *(Ord. of 5-2-1996, § 1204; Ord. of 04-28-2015; Ord of 01-10-2017)*

34
35
36 **Secs. 70-245—70-275. - Reserved.**

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36 **Secs. 70-245—70-275. - Reserved.**

Sec. 70-71. - Administrative variance
(redline_blackline versions)

1 **Article II - Administration**

2

3 **DIVISION 1. - GENERALLY**

4

5 **Sec. 70-71. - Administrative variance.**

6

7 The Zoning Administrator may grant variances for a reasonable modification to the zoning
8 requirements where such variance request is appropriate under the provisions of state and federal
9 fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as
10 applicable. Any such variance granted to provide a reasonable modification to a property or
11 improvements thereon requested by, or on behalf of, a person with a disability shall expire when
12 the person benefited by it is no longer in need of the modification to such property or
13 improvements provided by the variance.

14

15 ** Repealed (Ord. 04-28-2015)*

16 *(State Code Sec. 15.2-2309)*

17

18

1 **Article II - Administration**

2

3 **DIVISION 1. - GENERALLY**

4

5 **Sec. 70-71. - Administrative variance.**

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10 applicable. Any such variance granted to provide a reasonable modification to a property or
11 improvements thereon requested by, or on behalf of, a person with a disability shall expire when
12 the person benefited by it is no longer in need of the modification to such property or
13 improvements provided by the variance.

14

15 *(State Code Sec. 15.2-2309)*

16

17

Sec. 70-551. - Establishment and Applicability
(redline_blackline versions)

1 **DIVISION 11 - BARBOURSVILLE VILLAGE OVERLAY DISTRICT**

2
3 **Sec. 70-551. - Establishment and Applicability.**

4 a) *Applicability.* These overlay district regulations shall apply to the area designated
5 as the Barboursville village on the Recommended Land Use Map of the adopted 2013
6 Comprehensive Plan, and more specifically as shown on the map adopted by the Board of
7 Supervisors.

8 b) *Overlay concept.* Unless otherwise stated herein, the permitted uses and other
9 regulations of the underlying zoning districts and all other sections of this Zoning
10 Ordinance shall continue to apply. All commercial development within the district shall
11 conform to these provisions, unless specifically exempted.

12 c) *Zoning Map.* The boundaries of this district shall be clearly delineated on the
13 county's zoning maps.

14
15 d) A BVOD Advisory Committee (BVODAC) shall be appointed by the Board of
16 Supervisors for terms of two (2) years each. The BVODAC shall be comprised of ~~three~~
17 ~~(3)~~ five (5) persons, at least ~~two (2)~~ three (3) of whom must reside in, or own real estate
18 in, the BVOD.
19

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11 conform to these provisions, unless specifically exempted.

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13 county's zoning maps.

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16 Supervisors for terms of two (2) years each. The BVODAC shall be comprised of five
17 (5) persons, at least three (3) of whom must reside in, or own real estate in, the BVOD.
18

Barboursville Village Overlay District

**Barboursville Overlay District Advisory
Committee Guidelines**

DIVISION 11 - BARBOURSVILLE VILLAGE OVERLAY DISTRICT

Sec. 70-550. - Purpose and Intent.

a) The Barboursville Village Overlay District (BVOD) implements the policies, objectives, and purposes of the Comprehensive Plan and the Code of Virginia § 15.2-2283 by providing standards to protect and enhance the character of the area which complement the requirements of the underlying zoning districts. These regulations are intended to foster a higher standard of commercial building design and site design which is respectful of the cultural and historic nature of Barboursville, and produces development that complements, rather than detracts, from the character of the area. This character is in large part due to the Federal, Georgian, Greek Revival, Vernacular Victorian, and post and beam/timber frame architectural stylistic elements that were common of buildings built in the area during the eighteenth, nineteenth, and early twentieth centuries. Accordingly, a major purpose of this overlay is to provide avenues for nonresidential development to be substantially reflective of these architectural styles, while allowing for modern building practices. These regulations are further intended to retain the small village and community identity through the use of setback reductions to encourage a slightly greater degree of density and a continuation of the unique development pattern, through the use of restrictions on certain incompatible uses, and through the utilization of the underlying traditional, Euclidian zoning districts. However, these goals are to be achieved while not inhibiting the functionality of the arterial highways traversing the area. Finally, the village boundaries are arranged such that development will generally be encouraged within them and generally be discouraged outside of them.

Sec. 70-551. - Establishment and Applicability.

- a) *Applicability.* These overlay district regulations shall apply to the area designated as the Barboursville village on the Recommended Land Use Map of the adopted 2013 Comprehensive Plan, and more specifically as shown on the map adopted by the Board of Supervisors.
- b) *Overlay concept.* Unless otherwise stated herein, the permitted uses and other regulations of the underlying zoning districts and all other sections of this Zoning Ordinance shall continue to apply. All commercial development within the district shall conform to these provisions, unless specifically exempted.
- c) *Zoning Map.* The boundaries of this district shall be clearly delineated on the county's zoning maps.
- d) A BVOD Advisory Committee (BVODAC) shall be appointed by the Board Of Supervisors for terms of two (2) years each. The BVODAC shall be comprised of three (3) persons, at least two (2) of whom must reside in, or own real estate in, the BVOD.

Sec. 70-552. - Administration.

- a) *Review procedures.* All commercial development within the BVOD shall conform to the zoning permit and site plan requirements set forth in Article II of this Chapter. The Zoning Administrator shall refer all submitted minor and major site plans or development proposals within the BVOD to the BVOD Advisory Committee for their review and comment. The Zoning Administrator may refer any submitted site plan or development proposal within the BVOD to the Planning Commission for their review and comment. If the Zoning Administrator denies any part of a site plan or development proposal that he/she finds is not consistent with these overlay regulations, the applicant may make a written request for the matter to be reviewed and determined by the Commission.
- b) *Nonconformities.* Unless otherwise stated or modified herein, nonconforming uses and structures shall be regulated by Article III of this Chapter.
 - 1) If a commercial structure is nonconforming due to encroaching on a setback area or required yard, it may be expanded or enlarged provided the new portion of the structure is no closer to the affected property line than the nonconforming portion.

Sec. 70-553. - Uses.

- a) Except as provided in the following subsection, all by-right permitted uses and all special uses in the underlying zoning districts shall be permitted within the BVOD in accordance with individual district regulations.
- b) The following uses shall not be permitted within the BVOD.
 - 1) Adult-oriented business.
 - 2) Public utility facility.
 - 3) Self-storage facility.
 - 4) Wholesale or distribution center.
 - 5) Any use utilizing drive-through facilities.
- c) Any retail store in excess of five thousand square feet is allowed only by special use permit.

Sec. 70-554. - Area and Frontage Requirements.

Minimum lot area and frontage requirements shall be regulated by the underlying zoning districts.

Sec. 70-555. - Minimum Setback Requirements.

The specific requirements provided in this section shall supersede those found elsewhere in this Ordinance, but only within the boundaries of the BVOD. Setback distances not modified by this section shall be regulated by the underlying zoning district(s).

- a) Constitution Highway (Route 20) and Spotswood Trail (Route 33): minimum setback of seventy-five (75) feet from center-line of the road, which shall apply to all buildings and structures. Parking areas may encroach up to half this minimum distance. Freestanding signs shall have a minimum setback distance from the right of way which is equal to the height of the sign.
- b) Governor Barbour Street (Route 678): no minimum setback requirement for structures or signs.
- c) Old Barboursville Road (Route 738): minimum setback of twenty-five (25) feet from the centerline of the road for structures and signs.
- d) Adjacent to the railroad right-of-way: no minimum setback requirement.

Sec. 70-556. - Height Requirements.

No commercial building or structure within the BVOD shall exceed forty (40) feet in height.

Sec. 70-557. - Commercial Building Standards.

- a) *Applicability.* The standards set forth in this section shall apply to all new commercial development within the BVOD. For the purposes of this section, "new" shall refer to any commercial building or structure built after adoption of this overlay district. -
- b) *Building design.* Commercial buildings shall incorporate the architectural treatments and design considerations established below.
 - 1) Any commercial building within the BVOD shall be constructed in any of the following architectural styles by making substantial use of the building elements identified below for the style. Style elements may be physically installed or simulated.



Federal/Georgian Example

Federal/Georgian

- Brick or clapboard exterior
- A square or rectangular building shape
- Double-hung windows with divided lights and shutters
- Gable windows
- An embellished front entryway (e.g. elliptical fanlights, side lights, Palladian windows, columns, a porch, etc.)
- A hip roof or side-gable roof
- A symmetrical arrangement of doors and windows
- Exterior cornice molding
- Quoins
- End-chimneys



Greek Revival Example

Greek Revival

- Brick, clapboard, stucco, or stone exterior
- A square or rectangular building shape
- A full-height front porch supported by stylized columns
- A front gable with a pediment
- Decorative pilasters
- Double-hung windows with divided lights
- Exterior cornice molding
- An embellished front entryway (a horizontal transom, side lights, columns, etc.)
- A hip roof or low-pitched gable roof



Folk Victorian Example

Vernacular (Folk) Victorian

- A square, rectangular, or L-shaped building
- A front-gable roof
- Clapboard and/or decorative siding (i.e. "fishscale" siding) exterior
- Bracketed eaves
- A continuous or mostly-continuous front porch with decorative embellishments (e.g. spindlework, brackets, stylized columns, etc)
- Decorative front gable-end detailing
- Double-hung windows with top pediments



Post & Beam / Timber Frame Example

Post & Beam / Timber Frame

- Exposed structural components (i.e. rafters, purlins, posts, girts, knee braces, brackets, etc.)
- A square or rectangular building shape
- A prominent, covered entryway
- Vertical siding, clapboard, stone, stucco, or shake exterior
- A gable roof or gambrel roof
- Metal, shake, or slate roofing materials

2) Building and roofing colors shall be subtle, neutral and/or earth tones, and shall be of low-reflectance.

3) *Strip centers* as a building design shall not be permitted within the BVOD. For the purposes of this section, a *strip center* shall mean any single-story building used for three (3) or more separate commercial uses which are contained within separate units that share a common frontage.

c) *Mechanical equipment.* Roof-mounted mechanical equipment shall be opaquely screened from view at grade by parapet walls or other similar structures that reflect the architecture of the building. Ground-mounted mechanical equipment shall not be located in any yard adjacent to a public road, and shall be opaquely screened from view by walls or structures that are a continuation of the principal structure's architecture.

d) *Waste receptacles.* Trash dumpsters and waste receptacles for commercial use shall not be located in any yard adjacent to a public road, and shall be opaquely screened from view by fencing and/or evergreen landscaping. This standard shall retroactively apply to any lot upon any new development or complete redevelopment.

e) *Lighting.* All exterior lighting shall be of the full-cutoff variety that directs light downward and away from street or neighboring properties and shall have a historic and/or high-grade style of design reflective of the examples provided below.



f) *Fencing.* Picket fences and split-rail fences are the permitted fence types. Chain-link fencing is expressly prohibited except for security and safety purposes to enclose trash containers, HVAC, electrical etc. In such case the chain-link fencing itself must be opaquely screened from public view by use of approved fencing or natural buffer such as bushes and trees.

Sec. 70-558. - Off-street Parking and Landscaping.

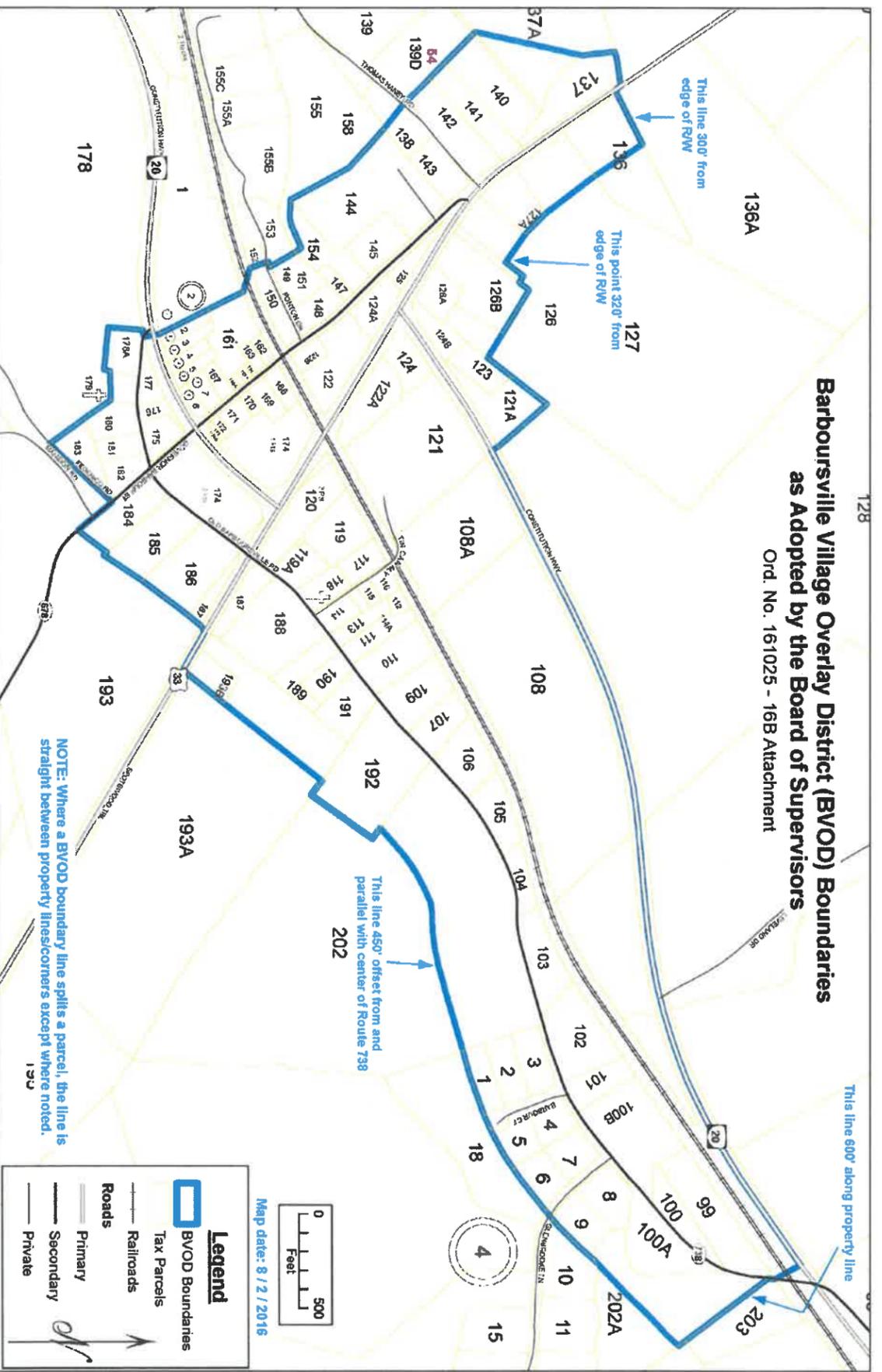
Off-street parking, loading, and landscaping shall be regulated by the Supplementary District Regulations section of this Chapter.

Sec. 70-559. - Outdoor Storage.

Outdoor storage of goods and materials related to any commercial use shall not be located in any yard adjacent to a public road, and shall be opaquely screened by fencing and/or evergreen landscaping, or shall be within an approved accessory building.

Sec. 70-560. - Signage.

- a) *Area.* Maximum allowable area of signage shall be regulated by the underlying zoning district.
- b) *Height.* Freestanding signs within the BVOD shall not exceed eight (8) feet in height. Building signs shall not extend above the highest point of the building to which they're attached.
- c) *Style.* Monument signs are the only style of freestanding sign permitted in the BVOD.
- d) *Digital signs.* Digital signs shall have a static display (no strobes or starbursts etc) of a single color, and may feature a change of message no more frequent than once per sixty (60) seconds.



Barboursville Village Overlay District (BVOD) Boundaries
 as Adopted by the Board of Supervisors
 Ord. No. 161025 - 16B Attachment

NOTE: Where a BVOD boundary line splits a parcel, the line is straight between property lines/corners except where noted.

Legend

- BVOD Boundaries
- Tax Parcels
- Railroads
- Roads**
- Primary
- Secondary
- Private



128

This line 600' along property line

This line 300' from edge of ROW

This point 320' from edge of ROW

This line 450' offset from and parallel with center of Route 738

178

203

4

37A

136A

108A

193A

100A

202A

137

136

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1268

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121A

121

108

106

105

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100B

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**Guidelines for the
Barboursville Village Overlay District Advisory Committee**

A. Purpose and Intent

- i. The Barboursville Village Overlay District (BVOD) implements the policies, objectives, and purposes of the Comprehensive Plan and the Code of Virginia §15.2-2283 by providing standards to protect and enhance the character of the area which complement the requirements of the underlying zoning districts. The regulations are intended to foster a higher standard of commercial building design and site design which is respectful of the cultural and historic nature of Barboursville, and produces development that complements rather than detracts from the character of the area.
- ii. The Barboursville Village Overlay District Advisory Committee (Advisory Committee) was created to review and comment on site plans or development proposals located within the BVOD.

B. Membership

- i. Members are appointed by the Board of Supervisors for two (2) year terms. Members may be reappointed by the Board of Supervisors to additional two (2) year terms.
- ii. Two (2) members must reside or own real estate within the boundaries of the BVOD. One (1) member may or may not reside or own real estate within the boundaries of the BVOD.

C. Review Authority

- i. The Zoning Administrator will refer all duly submitted and complete minor and major site plans and development proposals located on parcels within the BVOD to the Advisory Committee for review and comment.
- ii. The Zoning Administrator will have the discretion on what materials are made available to the Advisory Committee needed to sufficiently complete their review.
- iii. The Advisory Committee is only an advisory body to the Zoning Administrator and is not vested with any approval or disapproval authority for site plans or development proposals within the BVOD.
- iv. The Zoning Administrator or designee will provide staff support to the Advisory Committee.

D. Areas of Review

- i. The Advisory Committee will review minor and major site plans and development proposals for compliance with the BVOD, and particularly with the provisions of Section 70-550 (Purpose and Intent).
- ii. Each Advisory Committee member will have no more than thirty (30) calendar days to review and comment on the plans and proposal referred by the Zoning Administrator.
- iii. The Zoning Administrator may grant an extension of up to fourteen (14) calendar days to an Advisory Committee member to complete their review and return comments due to extenuating circumstances.
- iv. If an Advisory Committee member has not submitted a response by the deadline, the Zoning Administrator will assume the Advisory Committee member has no comment on the pending minor or major site plan or development proposal.

E. Amendment of Advisory Committee Guidance

The Board of Supervisors may revise these guidelines to address procedural or substantive needs of the Advisory Committee.



**Orange County Planning Commission
Regular Meeting
January 2, 2020**

Agenda Item 6d

ORANGE COUNTY
DEPARTMENT OF PLANNING AND ZONING

COMMUNITY DEVELOPMENT
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



OFFICE: (540) 672-4347
FAX: (540) 672-0164
orangecountyva.gov

APPLICATION FOR SPECIAL USE PERMIT (SUP)

Applicant Name: Mark & Jill Thorburn Phone: 540-273-7185

Mailing Address: 13200 Landmark Ct. Spotsylvania VA 22553

Email Address: mjthor3@verizon.net or Wash22@verizon.net

Application must be made by the Landowner or with his/her permission. If the Applicant is not the Landowner, please complete and attach: (1) a completed Authorized Agent Affidavit, OR (2) a letter of permission from the landowner.

Landowner Name: Mark & Jill Thorburn Phone: 540-273-7185

Mailing Address: 13200 Landmark Ct. Spotsylvania VA 22553

Property Location: 4324 Germanna Hwy Locust Grove, VA 22508

Tax Parcel #(s): #012A0001700010 Current Zoning: C2

Existing uses/structures: L.O.W. Carwash

Special use request (attach additional pages as necessary): * see attached *

**** Attach a general concept plan no smaller than 11"x17" and a comprehensive narrative for the proposed use. See the checklist for complete submittal requirements. ****
**** Incomplete applications will not be processed. ****

For minimum setback requirements and other zoning requirements, refer to the Orange County Zoning Ordinance (available online at <http://www.oranvecode.us/>) or contact the Department of Planning & Zoning.

Signature of Applicant: [Signature] Date: 12/10/19

Application fee: \$400 (mailing and advertising fees are billed separately)

NOTE: Refunds will not be issued once a SUP application has proceeded to the ARC review period.

Comprehensive Narrative for The Icebox Creamery Expansion

The Icebox Creamery is requesting a Special Use Permit in an effort to move forward with the transitioning of our existing ice cream business from a temporary ice cream trailer, to a permanent ice cream structure. This structure would be built at the current address of the temporary ice cream trailer.

Our business, The Icebox Creamery, has been in business for the past four summers, beginning in 2016, at 4324 Germanna Highway, by way of Orange County's Temporary Use Permit. Our business provides premium soft serve ice cream, as well as sundaes, floats, milkshakes, with a variety of syrups and toppings. We also sell shaved ice. We are inspected by the Virginia Department of Agriculture annually to ensure compliance with all state regulations prior to opening each season. With approval of a Special Use Permit, we will be expanding our business to sell hard scooped ice cream in addition to our soft serve ice cream.

Our new structure would consist of an Amish built concession stand measuring 12'x24'. This stand would be barn style and will have two serving windows on the front of the building, along with a four foot overhang, providing a porch structure for our customers. (Please see attached picture).

In order to provide the pad site for the ice cream concession stand, we must construct a retaining wall to bring the existing grade to equal the grade of the current carwash parking lot. The retaining wall, measuring approximately 90' long and 3-5' tall, with the pad site being 16' wide, will include the concession stand, as well as outdoor seating, consisting of approximately eight tables. A fence will be constructed along the entire length of the retaining wall. This retaining wall will be engineered by Dominion Engineering Associates, Inc., and the engineering plans will be submitted to the county for approval. The ice cream concession stand will be anchored to the new pad site with anchor straps that are currently approved by Orange County. We will also provide a minimum of 5 parking spaces for our ice cream customers.

We currently have water/sewer/power readily available to our new concession stand, which we had installed for use of our temporary ice cream trailer. We will also have designated lined parking spaces available for our ice cream customers.

This business will generate tax revenue with little to no additional expense or impact to Orange County. The ice cream business will not impact traffic any more so than our temporary trailer has during previous seasons. Also, it will not have an impact on public

services, or on historic and cultural resources. There will not be any impact on the environment as well. Finally, there will be no impact on neighboring properties.

To conclude, we have grown with our customers and we want to be able to provide a longer season with longer hours that a temporary permit does not allow. After four previous successful seasons serving ice cream in the Locust Grove area, we are looking forward to serving our customers in 2020.

The Icebox Creamery Structure ↓



Color of structure ↓



ORANGE COUNTY
PLANNING SERVICES

COMMUNITY DEVELOPMENT
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



OFFICE: (540) 672-4347
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orangecountyva.gov

STAFF REPORT

<u>Application Number / Name:</u> SUP 19-5: Thorburn/The Icebox Creamery	<u>Application Type:</u> Special Use Permit
<u>Planning Commission Public Hearing:</u> January 2, 2020	<u>Board of Supervisors Public Hearing:</u> January 28, 2020
<u>Owner(s):</u> Mark & Jill Thorburn	<u>Applicant(s):</u> Mark & Jill Thorburn
<u>Tax Parcel Number(s):</u> 12A-17-1	<u>Location:</u> 4324 Germanna Hwy, Locust Grove, VA
<u>Voting District(s):</u> District 5	<u>Current Zoning District(s):</u> C-2 General Commercial
<u>Affected Acreage:</u> 1.24 acres	<u>Recommended Future Land Use:</u> GWAP Subarea 5 – Lake of the Woods
<u>Staff Report Date:</u> December 20, 2019	<u>Staff Report Prepared By:</u> Sandra Thornton

STAFF RECOMMENDATION

The Planning Commission could consider approving this Special Use Permit (SUP) provided it is satisfied that the proposed conditions address any potential impacts of the proposed additional improvements and expanded use of the Lake of the Woods Car Wash property. The Planning Commission and the Board of Supervisors may modify, remove, or otherwise edit these proposed conditions as well as add other conditions as deemed appropriate.

It should be noted that the applicants have operated an ice cream concession as a temporary use for the past four (4) years, generally between April and late September/early October each year. A copy of the last temporary use zoning permit issued for the 2019 season is attached to this report. The applicants desire to install a permanent structure which would allow them to expand their offerings, but a permanent structure would not comply with current regulations set forth in Section 70-939 – Temporary uses, general. The proposed use does not comport with the definition of “Restaurant,” due to the absence of any indoor seating, nor with the definition of “Retail store” as set forth in Section 70-1 of the zoning code. Accordingly, the application is submitted pursuant to Section 70-483 (11), which allows with approval of a special use permit “any commercial use which is not expressly permitted in this district.”

The applicants also wish to operate the concession for a longer period during the year than is allowed under the temporary use approval process.

Approval of the SUP will obviate the need for an annual temporary use review and permitting process.

ORANGE COUNTY
PLANNING SERVICES

APPLICATION OVERVIEW & BACKGROUND

Application Summary:

This is a special use permit application submitted by Mark and Jill Thorburn to expand their seasonal ice cream concession on property located at 4324 Germanna Highway, Locust Grove, referenced as county tax parcel 12A-17-1. The property contains 1.24 acres and is the site of the Lake of the Woods Car Wash, which was permitted by approval of a special use permit with conditions in 1998. They propose a walk-up service window in a permanent structure that would be situated generally in the same area as the temporary trailer which has been used for the past four years, although the pad site will be off the existing pavement on area that will require a retaining wall and fill. They propose to delineate a minimum of five (5) parking spaces along the east (Rt. 3) side of the existing pavement, a number consistent with parking requirements in Section 70-673, and to construct a sidewalk from the parking spaces to the concession stand to minimize or eliminate potential conflicts between pedestrians and car wash customers. Several picnic tables would be placed adjacent to the new structure.

Character of the Area:

The immediate area is generally characterized by traditional commercial development along Germanna Highway. The property along the opposite side of Germanna Highway is currently vacant.



View north at property entrance



View of property adjacent to north of subject parcel



View south at property entrance



Adjacent parcel along southern parcel boundary



View to west (rear) of subject property



View across Germanna Highway from property entrance

Planning & Zoning History:

It appears that the current zoning assigned to this parcel is the historic zoning. As previously referenced, a special use permit was issued with conditions in 1998 to allow the extant car wash. A copy of the staff report for SUP 98-5 is attached for informational purposes.

Community Input:

The public hearing notice for this SUP application was advertised in the December 19 and 26, 2019, editions of the Orange County Review. Adjoining property owners were sent notices via certified mail on December 20, 2019, and the public hearing notice sign was posted on the property on December 20, 2019. At the time this staff report was written, no public comments had been received concerning this application.

Application Review Committee (ARC):

ARC comments were solicited via email on December 17, 2019, with comments requested by December 31, 2019. At the time this staff report was written, no comments had been received from the ARC.

ORANGE COUNTY
PLANNING SERVICES

ANALYSIS & REVIEW OF IMPACTS

In granting a special use permit, Sec. 70-141 of the Zoning Ordinance states that the Planning Commission and the Board of Supervisors shall consider whether the proposed use would further the purposes of the Comprehensive Plan and the Zoning Ordinance; whether it would threaten the public health, safety or welfare; whether it would be compatible with its surroundings; whether it would impact the environment or any natural, scenic, or historic features; and whether it would result in a substantial detriment to the surrounding property.



Current use



North side of parcel – approximate location of new structure



View of proposed parking area along Rt. 3 frontage

Zoning / Uses:

This SUP request is pursuant to Section 70-483 (11), which allows with approval of a special use permit “any commercial use which is not expressly permitted in [the C-2] district.” As previously noted, the ice cream concession is not expressly allowed under the permitted uses in the C-2 District.

The property is adjacent to other parcels zoned C-2 to the north, south, and east; the area adjacent to the west of the subject property is zoned R-3 Planned Residential.

Comprehensive Plan:

The subject property is located in Subarea 5: Lake of the Woods in the Germanna-Wilderness Area Plan. The plan calls for traditional commercial development along Germanna Highway with a

ORANGE COUNTY
PLANNING SERVICES

variety of commercial development types that are compatible with adjacent residential areas. The proposal is consistent with the vision articulated in the GWAP.

Impacts to Public Health, Safety, and Welfare:

The expanded ice cream concession would be expected to pose no detrimental impacts to public health, safety, and welfare.

Impacts to Environmental, Scenic, and Historic Assets:

There are no sensitive natural features on the parcel, and no special scenic or historic asset are noted. Accordingly, there are no anticipated environmental impacts, nor any negative impacts to scenic or historic assets of the County associated with the proposed use.

Compatibility with Surroundings:

This proposal should be compatible with the surrounding land uses provided the conditions imposed on the car wash continue to be implemented in conjunction with additional proposed conditions. The Planning Commission and the Board of Supervisors may modify, remove, or otherwise edit these proposed conditions as well as add other conditions as deemed appropriate.

Impacts to County Services:

There are no anticipated significant impacts to services provided by the County in association with the expanded concession activity.

Fiscal Impacts:

No significant fiscal impacts are expected in association with the proposed land use, although some additional tax revenue will be generated.

Transportation:

No significant impacts with regards to transportation infrastructure are anticipated in conjunction with the proposed use. There is currently a right-turn lane into the property, and there is no median crossover to the north Rt. 3 travel lanes. Staff is aware of no transportation impacts resulting from the temporary ice cream concession, and none would be expected with the somewhat expanded use.

PROPOSED CONDITIONS REVIEW

**Proposed Conditions
SUP 19-05, Mark & Jill Thorburn
Orange County TM 12A-17-1
December 20, 2019**

The following proposed conditions are intended to address the potential impacts of the proposed use and to align the application with applicable provisions of the Orange County Comprehensive Plan as well as the purpose and intent of the Zoning Ordinance. If the conditions of this Special Use Permit conflict with one another or with the Zoning Ordinance, the more restrictive shall apply, unless specifically modified, waived, or otherwise specified in these conditions. Violation of these conditions, in whole or in part, may be cause for revocation of the Special Use Permit.

ORANGE COUNTY
PLANNING SERVICES

Term of Special Use Permit:

1. This Special Use Permit is to allow the operation of an ice cream concession on the property identified on county tax maps as parcel 12A-17-1.

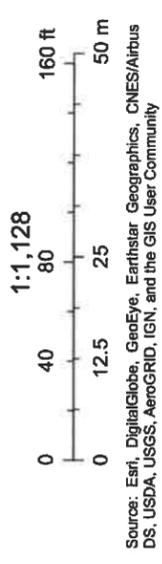
Uses and Site Design:

1. This Special Use Permit is to allow a seasonal ice cream concession from a permanent structure. The property owner shall be responsible for obtaining all required zoning permits, site plan approvals, land disturbance permits, and building permits as may be required in association with this use.
2. Conditions imposed with approval of SUP 98-5 shall continue in force, and the hours of operation for the concession stand shall not exceed those stipulated for the car wash (7 a.m. to 11 p.m.).
3. Parking spaces and pedestrian access to the concession stand shall be delineated to minimize potential conflicts between concession customers and car wash patrons.

Lake of the Woods Car Wash Aerial View

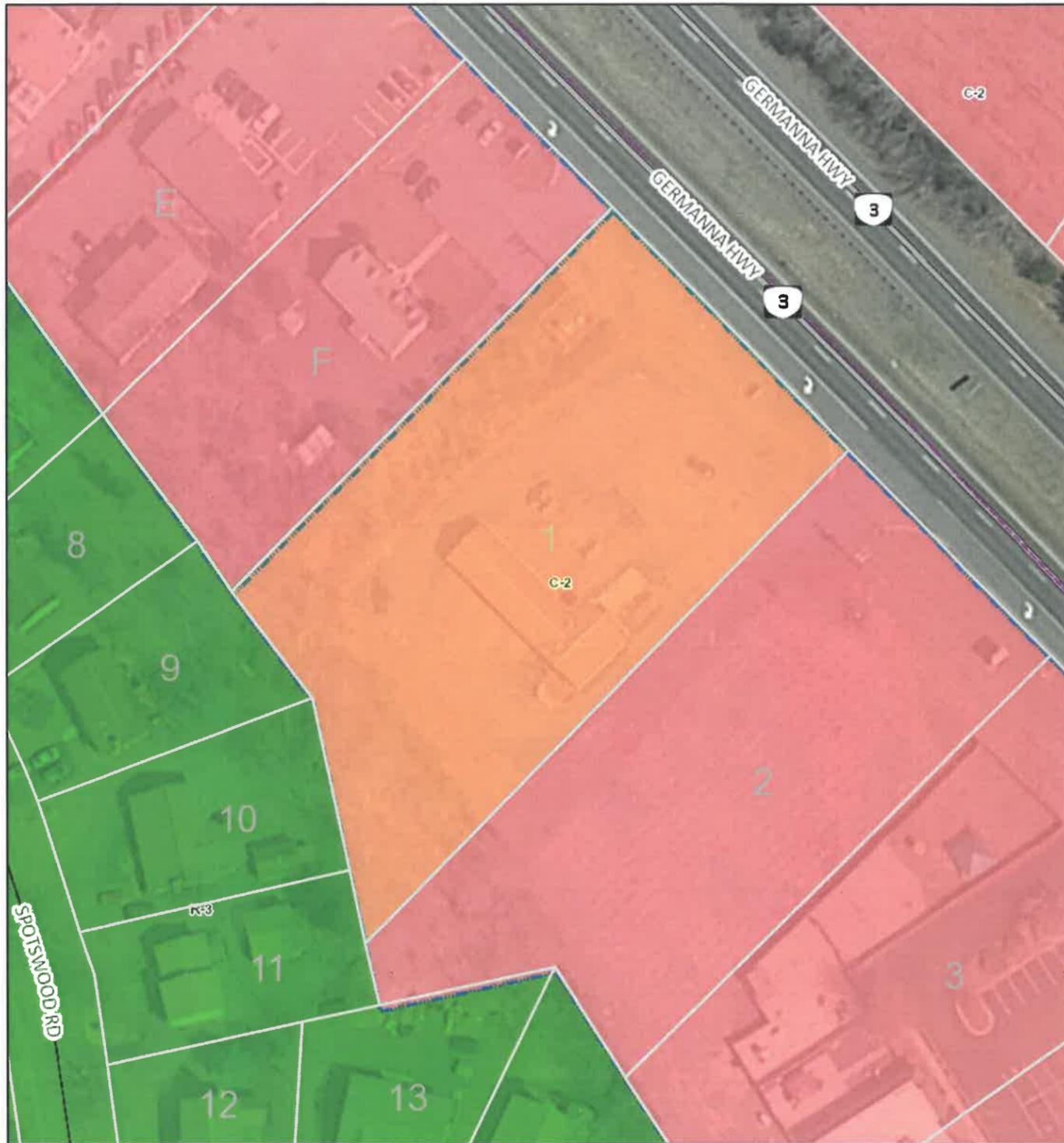


December 20, 2019



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

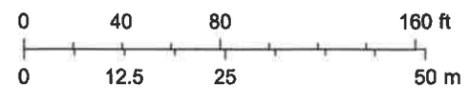
LOW Car Wash - Zoning Map



December 20, 2019

1:1,128

- USGS Waterbodies
- Driveway
- USGS Flowlines (Streams)
- Roads**
- Primary
- Secondary
- Private
- Cemeteries
- Annotation Polygon



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

LOW Car Wash - Recommended Future Land Use



December 20, 2019

- USGS Waterbodies
- USGS Flowlines (Streams)
- Cemeteries
- Roads
 - Primary
 - Secondary
- Driveway
- Annotation Polyline
- Annotation Polygon
- Subdivision Boundary

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

ORANGE COUNTY
DEPARTMENT OF PLANNING AND ZONING

App. Ref.: 30621

COMMUNITY DEVELOPMENT
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



OFFICE: (540) 672-4347
FAX: (540) 672-0164
orangecountyva.gov

ZONING PERMIT

Name of Applicant: <u>THORBURN, MARK A & JILL D</u>	Phone: _____
Mailing Address: <u>13200 LANDMARK CT SPOTSYLVANIA, VA 22553</u>	

Name of Landowner: <u>THORBURN, MARK A & JILL D</u>	Phone: _____
Mailing Address: <u>13200 LANDMARK CT SPOTSYLVANIA, VA 22553</u>	

Zoning: <u>C2 (GENERAL COMMERCIAL)</u>	Subject to: <input type="checkbox"/> Proffers <input type="checkbox"/> SUP/SE Conditions <input type="checkbox"/> Variance
Project Location: <u>4324 GERMANNA HIGHWAY; LOCUST GROVE</u>	Tax Parcel #: <u>012A0001700010</u>
Nonconforming lot?: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Nonconforming use/structure?: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Check applicable box(es) for permit being issued: E&S Permit Issued? YES NO

<input type="checkbox"/> Single-family dwelling: # of bedrooms: _____	<input type="checkbox"/> Manufactured home: # of bedrooms: _____
<input type="checkbox"/> Commercial use/structure:	Year: _____ S/N: _____
	HUD #: _____ Used? <input type="checkbox"/>
<input type="checkbox"/> Accessory use/structure:	<input type="checkbox"/> Sign permit: _____
	Total: _____ Sq. Ft. _____
<input type="checkbox"/> Home occupation:	<input type="checkbox"/> Home enterprise:
<input type="checkbox"/> Change of use:	<input type="checkbox"/> Temporary use:
<input checked="" type="checkbox"/> Notes/Other: <u>OPEN APRIL 28, 2019 DAILY 1-0 *MUST BE EXTENDED SEPT 27, 2019*</u>	

SEE BACK AND/OR ATTACHED FOR SITE PLAN SHOWING PROJECT SPECIFICS.

Proposed Setbacks:

Front yard setback: 100	Left yard setback: 117
Rear yard setback: 176	Right yard setback: 35

Minimum Required Setbacks:

Front Yard:	<u>100.00</u> feet from <input checked="" type="checkbox"/> property line/right-of-way <input type="checkbox"/> road C/L <input type="checkbox"/> Other:
Left Yard:	<u>10.00</u> feet from <input checked="" type="checkbox"/> property line/right-of-way <input type="checkbox"/> road C/L <input type="checkbox"/> Other:
Right Yard:	<u>10.00</u> feet from <input checked="" type="checkbox"/> property line/right-of-way <input type="checkbox"/> road C/L <input type="checkbox"/> Other:
Rear Yard:	<u>50.00</u> feet from <input checked="" type="checkbox"/> property line/right-of-way <input type="checkbox"/> road C/L <input type="checkbox"/> Other:
Notes/Other:	
VDOT Land Use (Entrance) Permit obtained: <input type="checkbox"/> YES <input checked="" type="checkbox"/> N/A	

I, the undersigned, hereby certify that I will comply with the above zoning requirements and all other applicable county and state regulations. I further understand that noncompliance will result in enforcement actions.

Signature of owner/agent: *Signature on file* Date: _____

Zoning Administrator/Designee: *Juan Crosby* Date: 8/12/19

NOTICE: Any changes to this approved permit require issuance of a new permit at a cost of \$25

Orange County Planning Staff Report Mark Thorburn Car Wash (SUP 98-5)

Advertisement

SUP98-5: An application by Mark Thorburn for a special use permit to locate a car wash on property located on the south side of Route 3 just west of Cafe Michael restaurant. This parcel is zoned General Commercial (C-2) and is identified as parcel 12A-17-1 on Orange County zoning maps.

Background

Mark Thorburn is the contract purchaser of Lot 1 in Section 17 of the Lake of the Woods subdivision, property that is zoned General Commercial (C-2), and would like to locate a 5-bay car wash on site. A special use permit for a car wash for Mr. Thorburn was approved for Lot 2 in this development in October 1997. However, a recent purchase of Lot 2 by Culpeper Memorial Hospital for a child care center has prompted Mr. Thorburn to seek approval for a car wash on Lot 1.

Several conditions were imposed on the first car wash application, and Mr. Thorburn has indicated that he would agree to those same conditions for the current application. The conditions imposed were as follows:

1. Must utilize existing Route 3 entrance and service road to access site.
2. Underground utility lines must be utilized.
3. As interior landscaping is not practical, use four grates, each 3 feet square in size, to capture stormwater run-off and direct it down into a graveled area.
4. Landscaping at the front of the property along Route 3 shall consist of deciduous trees placed 30 feet apart, at a minimum.
5. On-site lighting shall be directed such as not to reflect glare onto adjoining properties.
6. Existing natural vegetative buffer at rear of property must remain.
7. Signage must meet current guidelines as outlined in the Orange County Zoning Ordinance.
8. It shall be the goal of the property owner to recycle 80% of the water utilized in the car wash.
9. Hours of operation shall be 7 a.m. to 11 p.m.

Analysis

The future land use map in the 1992 Germanna Highway Corridor Land Development Plan, a component of the 1990 Orange County Comprehensive Plan, shows the area of the proposed facility to be located within an area designated as commercial. The site has an entrance on the

frontage road currently used by the other adjacent commercial property owners, such that there will not be a separate entrance onto Route 3. The site is served by public water and sewer. There is an existing wooded buffer between the site and the adjoining residences in the Lake of the Woods subdivision.

Recommendation

If the Planning Commission finds the proposed use would be consistent with the Comprehensive Plan and the Zoning Ordinance, and would not be detrimental to surrounding property, it should recommend approval to the Board of Supervisors. The Commission may also recommend the Board of Supervisors attach conditions to the permit.