

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



MAILING ADDRESS:
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960

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

SANDRA THORNTON
PLANNING SERVICES MANAGER

Orange County Planning Commission Agenda
Thursday, September 3 – 6:00 p.m.

This meeting is being held electronically pursuant to and in compliance with the Continuity of Government Ordinance (or "An Ordinance to Effectuate Changes in Certain Deadlines and to Modify Public Meeting and Public Hearing Practices and Procedures to Address Continuity of Operations Associated with the COVID-19 Pandemic"), adopted April 28, 2020 by the Orange County Board of Supervisors in accordance with Virginia Code § 15.2-1413. The meeting is accessible by:

https://www.youtube.com/channel/UCnL_EM-lgrXYdfKcPI8-jOQ

This meeting will be conducted remotely and there will be no physical public access. During this meeting, there will be no opportunity for public comment.

1. Call to Order and Determination of Quorum
2. Approval of Agenda
3. Approval of Minutes
 - a. August 20, 2020 regular meeting (including written public comments received regarding SUP 20-02)
4. New Business
 - a. **Continuation of Preliminary Plat Review – Winterberry Creek/Garrett Street LLC**
5. Public Hearings
 - a. **Continuation of SUP 20-01:** Mid-Atlantic Pyrotechnic Arts Guild has submitted amendments to a Special Use Permit application for the manufacture, testing, and discharge of fireworks at Tax Map Parcel 61-32 which contains 127.544 acres and is zoned Agriculture (A). The property is owned by Cardinal Garden & Gun, LLC and is located on Woolfolk Lane. The parcel is designated Agricultural 1 on the Recommended Future Land Use Map in the Orange County Comprehensive Plan. The request is pursuant to Orange County Zoning Code Sec. 70-303 (23) – Uses permitted by special use permit, "Pyrotechnics testing/manufacturing on a parcel 50 acres or greater in size."

Written comments regarding SUP 20-01 were included in the agendas of the June 6, 2020, June 18, 2020, and August 6, 2020 Planning Commission Meetings

6. Worksession

- a. Notification to Planning Commission of pending subdivision waivers
- b. County complaints procedure and processing
- c. Process for receipt of written public hearing comments – requirements and standards
- d. Application processing
- e. Timeliness of information delivery to Planning Commissioners

7. Old Business – (none)

8. Reports

- a. Board of Supervisors report – Mark Johnson
- b. Planning Services report – Sandra Thornton

9. Commissioner Comments

10. Next meeting date – October 1, 2020

11. Adjourn



**Orange County Planning Commission
Regular Meeting
September 3, 2020**

Agenda Item 3a

**Orange County Planning Commission
Regular Meeting
Thursday, August 20, 2020
Meeting Held Electronically via Zoom video conference**

Present: Donald Brooks (Chairman); Jason Capelle (Vice Chairman); George Yancey; Jim Hutchison; Julie Zeijlmaker; Mark Johnson, Board of Supervisors Liaison

Absent:

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

Due to Covid-19 concerns, this meeting was conducted virtually and live-streamed on YouTube. The meeting was held in compliance with the Orange County Continuity of Government Ordinance ("Ordinance to Effectuate Temporary Changes in Certain Deadlines and to Modify Public Meeting and Public Hearing Practices and Procedures to Address Continuity of Operations Associated with the COVID-19 Pandemic") adopted by the Board of Supervisors on April 28, 2020 pursuant to Virginia Code § 15.2-1413.

1. Call to order and determination of quorum:

Chairman Brooks called the meeting to order at 6:00 pm and live streaming began on YouTube. A quorum was established.

2. Approval of agenda:

On a motion of Mr. Hutchison, seconded by Mr. Capelle, which carried by a vote of 5-0, the agenda was approved.

3. Approval of minutes:

a. August 6, 2020 regular meeting:

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

4. New Business:

a. Continuation of Preliminary Plat Review – Winterberry Creek/Garrett Street LLC

The Planning Commissioners began discussion with questions about the submitted plat, specifically how the second entrance will meet both the Subdivision Ordinance and VDOT requirements. Mr. Capelle inquired about the process by which waivers were issued to developers. Mr. Yancey mentioned three (3) concerns: water and septic, water source but no hydrogeological study to determine if there will be enough water to provide for 109 homes, and the road system needing to allow for emergency vehicles and school buses.

To allow more time for the applicants and staff to address the questions posed, Chairman Brooks suggested the plat review be moved to another time.

Mr. Capelle made motion to defer the review until the September 3, 2020 Planning Commission meeting. The motion was seconded by Mr. Hutchison, and with vote of 4-1 the motion passed.

Ayes: Zeijlmaker, Capelle, Hutchison, Brooks

Nays: Yancey

5. Public hearings:

- a. **SUP 20-02:** Orange County Resort, LLC has applied for a Special Use Permit to operate a 250-unit Recreational Vehicle Park on property owned by Jeffrey B. and Donna Hayden and identified as Tax Map Parcels 74-22 and 74-22B. A portion of the proposed project area is located in Orange County but identified as Spotsylvania County Parcel 53-A-1. The proposed project area is located in Voting District 2 and consists of 82.87 acres zoned A Agricultural, and the Orange County portion of the area is designated Agricultural-1 on the Recommended Future Land Use Map in the Orange County Comprehensive Plan. The request is pursuant to Orange County Zoning Code Sec. 70-303 (5) – Uses permitted by special use permit, “Camp, campground or recreational vehicle park.”

The Planning Commission received written public comments regarding SUP 20-02, which were included in the agendas for the August 6, 2020 and August 20, 2020 meetings.

Ms. Thornton advised the application did meet minimum requirements for submission but noted that the applicants had submitted significant alterations to the plans after review of the initial submittal. She advised the commissioners that it was her opinion that there are too many unresolved questions and that information remains insufficient to provide an adequate staff review and draft conditions that would apply to the Special Use Project.

Mr. Yancey stated there are many questions and excellent points of contention expressed in comments submitted by the public, including harmful algae bloom, water and sewer impacts and increased traffic on Route 522. He made a motion to recommend denial of the SUP and the motion was seconded by Mr. Capelle.

Chairman Brooks advised county staff had recommended to the applicants that the application was not ready to be put on the agenda, but they wanted to move forward. He called for a vote on the motion to recommend denial of the SUP and the vote passed 5-0.

Ayes: Zeijlmaker, Capelle, Hutchison, Yancey, Brooks

Nays: 0

6. Work session: None

7. Old business: None

8. Reports:

a. Planning Services Report – Sandra Thornton

Mrs. Thornton informed the Planning Commission that SUP 20-03 will not be included on the next meeting agenda. She also advised that SUP 20-01 will be continued at the September 3, 2020 meeting.

b. Board of Supervisors Report – Mark Johnson – None

9. Commissioner comments:

The Planning Commissioners expressed concern about timeliness of receiving information on agenda items and handling of comments in the future. Commissioners mentioned several items for inclusion in a work session at the next meeting, including a discussion of the county’s processing of complaints, planning commission notification of pending subdivision waivers, and how commission business is conducted generally.

10. Next meeting date – September 3, 2020

11. Adjourn

On the motion of Mr. Hutchison, seconded by Mr. Yancey, which carried by a vote of 5-0, the meeting adjourned at 7:13 pm.

Donald Brooks, 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
September 3, 2020**

Agenda Item 4a

ORANGE COUNTY

PLANNING SERVICES

COMMUNITY DEVELOPMENT
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



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

MEMORANDUM

TO: Orange County Planning Commission

FROM: Sandra B. Thornton, Planning Services Manager

SUBJECT: Winterberry Creek Preliminary Subdivision Plat

DATE: August 28, 2020

During your August 6, 2020, discussion of the preliminary subdivision plat referenced above, concern was expressed about several matters. Following is information in response to those issues.

1) Clarification was requested concerning May 7, 2020, email from Mark Wood, Assistant Resident Engineer/Area Land Use Engineer, VDOT – Louisa Residency, in which he stated that “the section of Berry Creek Avenue between Rte. 613 (Willy Miser Lane) and Crosscreek Lane will have to remain private as it does not meet public service requirements.”

Mr. Wood explained in a phone conversation with staff on August 27, 2020, that while the proposed emergency access certainly has value, it would not be considered a street that meets VDOT Subdivision Street requirements, even though it is proposed to be constructed to VDOT street standards, because it would not have 24/7 access to Willy Miser Lane; this would be a necessary feature for a street that meets “public service requirements.”

This explanation indicates that the proposed access, while being constructed to VDOT specifications, would not actually comport with VDOT Subdivision Street Requirements as required by Sec. 54-168.1 of the pre-4/25/18 Subdivision Ordinance for points of access to the state highway system. Thus, even though VDOT has indicated that a design exception would not be required by VDOT, the waiver requested of the County in the January 8, 2019, letter from Shimp Engineering to Bryan David, would actually need to be approved. Mr. Wood also noted that the proposed emergency access is not approvable by VDOT as a full point of access due to insufficient sight distance at that juncture with the state road. This would mean that in the event the primary entrance were to be closed or blocked for any reason, all the subdivision traffic would be accessing the state highway at a point where inadequate sight distance exists.

This information also raises the issue of compliance with Sec. 54-167.4., which requires that any private road shall be constructed to meet the Virginia Department of Transportation Subdivision Street Requirements, i.e., the public street requirements. Again, the issue is not the construction standard itself but the public service requirement.

2) Were Emergency Services and the school system contacted by county staff regarding the waiver request approved on August 22, 2018, for a reduction in the cul-de-sac right-of-way diameter?

ORANGE COUNTY

PLANNING SERVICES

Justin Sarver, Director of Transportation, Orange County School System, advised that he was not contacted in 2018 regarding this project. He indicated that as proposed, a 90-ft. diameter with 60-ft. paved area “would be tight for a bus.” (Email dated August 27, 2019)

Chief Nathan Mort located email dated June 11, 2018, from Craig Johnson, who at that time was Assistant Chief/Fire Marshal. That email and attachments are attached herewith for your information. There was no specific recommendation; the guidance he forwarded from the Statewide Fire Prevention Code, Appendix D, specifies a 96-ft. cul-de-sac.

3) Further information concerning a hydrological study of the site was requested.

The file on this matter includes correspondence from county staff to the property owner dated November 13, 2017, advising that the results of hydrogeological testing conducted by True North Environmental LLC had been received on October 26, 2017, and reviewed. Mr. Frederick’s letter to Mr. Springer advised that the findings were sufficient to meet the county’s standards and that he could proceed with submitting preliminary subdivision plats for the development. There is an extensive hard-copy report in the file, as well as a DVD containing the results of the investigation.

Tracey Newman

From: Sandra Thornton
Sent: Friday, August 28, 2020 1:18 PM
To: Tracey Newman
Subject: FW: Proposed Winterberry Creek subdivision near Greene
Attachments: SKM_C30818061115450.pdf; SKM_C30818061115440.pdf; SKM_C30818061115430.pdf

Tracey,

This is the email to be attached to my Winterberry Creek memo.

Thanks

Sandra B. Thornton
Planning Services Manager
Orange County, VA
128 W. Main St. Orange, VA 22960
(540) 672-4347 (P) (540) 672-0164 (F)

From: Nathan Mort <nmort@orangecountyva.gov>
Sent: Friday, August 28, 2020 9:58 AM
To: Sandra Thornton <sthornton@orangecountyva.gov>; Justin Sarver <jsarver@ocss-va.org>
Subject: FW: Proposed Winterberry Creek subdivision near Greene

From: Craig Johnson <cjohnson@orangecountyva.gov>
Sent: Monday, June 11, 2018 4:28 PM
To: Nathan Mort <nmort@orangecountyva.gov>; Josh Frederick <jfrederick@orangecountyva.gov>
Subject: RE: Proposed Winterberry Creek subdivision near Greene

Josh and Chief Mort,

As our department does not routinely review plans, and has not established any standards for roadways. I refer you to the Statewide Fire Prevention Code, Appendix D, for guidance. Attached here for your convenience. The standard itself is not enforced by state adopted version of the fire code, though it is available for local adoption. Orange County has not adopted it for local application. Still it is the only roadway reference I can find. As our fire vehicles are at least as long and large as any fire service in the county, I think this standard is worth adhering to, whenever practical.

Craig Johnson
Assistant Chief/Fire Marshal
County of Orange, VA
(540) 661-5377

From: Nathan Mort
Sent: Monday, June 11, 2018 3:34 PM

To: Craig Johnson <cjohnson@orangecountyva.gov>
Subject: Fwd: Proposed Winterberry Creek subdivision near Greene

Sent from my iPhone

Begin forwarded message:

From: "Josh Frederick" <jfrederick@orangecountyva.gov>
To: "Nathan Mort" <nmort@orangecountyva.gov>
Cc: "wsheler@yahoo.com" <wsheler@yahoo.com>
Subject: Proposed Winterberry Creek subdivision near Greene

Good afternoon Nathan,

We have preliminary plans for a proposed 109-lot subdivision off of Ridgeway Dr (Route 670) adjacent to Greene County. Attached is a pic of the preliminary layout (I can provide a plan set if you'd prefer). They are proposing a series of dead-end roads with cul-de-sacs ranging from 80' to 92' in diameter. Can you please confirm that this road arrangement is (conceptually) acceptable from a fire safety/first responder standpoint? The cul-de-sac diameters don't meet or typical standards, but we have the ability to reduce the requirement if first safety and/or first responder access is not otherwise hindered.

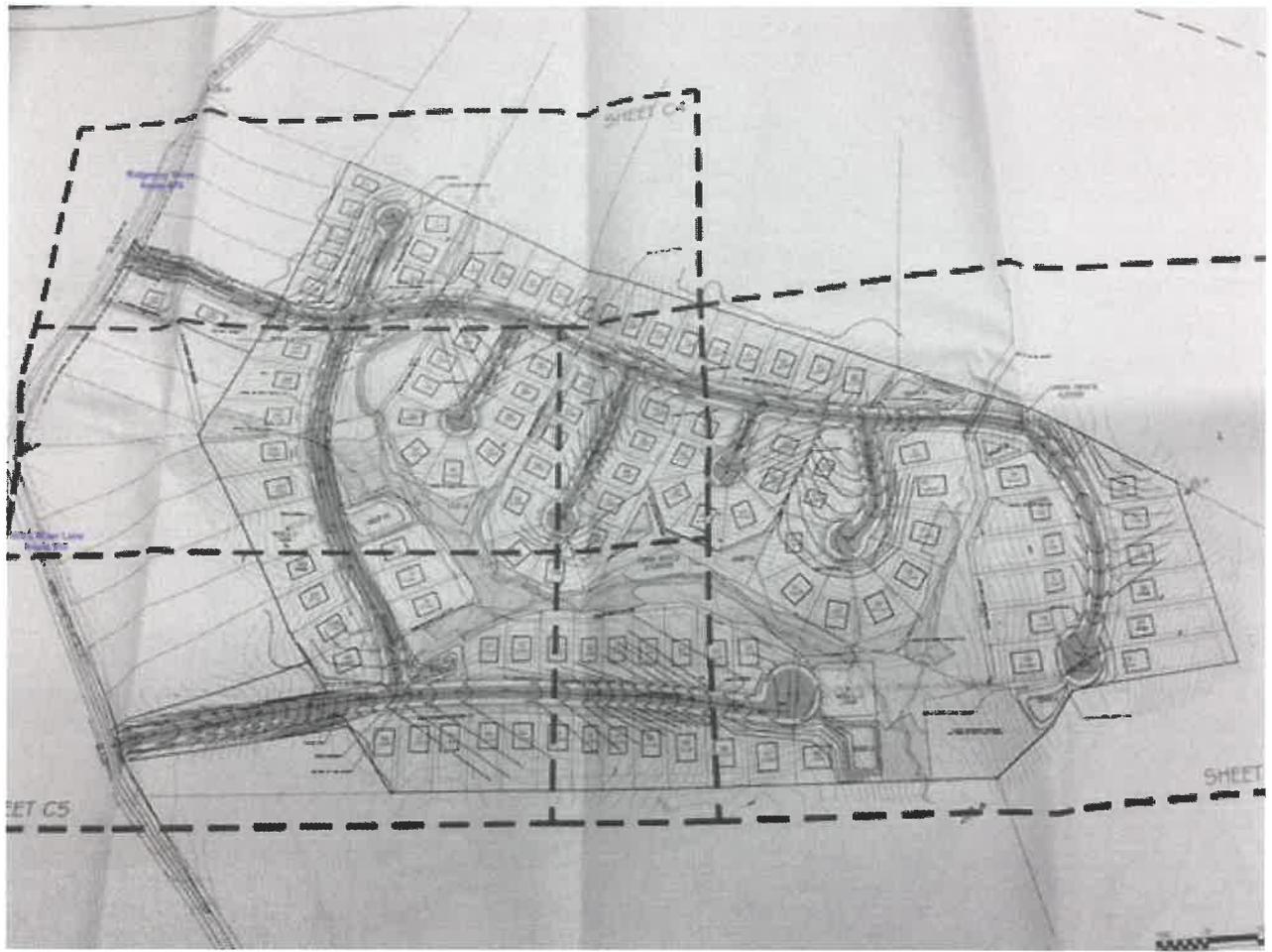
Feel free to give me a call to discuss if needed.

Thank you,

JOSH FREDERICK | DIRECTOR OF PLANNING & ZONING | ORANGE COUNTY, VIRGINIA | 128 W MAIN ST ORANGE, VA 22960

(540) 672-4347 (P) | (540) 672-0164 (F) | [CLICK HERE TO VISIT THE PLANNING & ZONING WEBSITE](#)

NOTICE: THIS EMAIL DOES NOT CONSTITUTE AN OFFICIAL DECISION OR DETERMINATION PURSUANT TO THE CODE OF VIRGINIA.



APPENDIX D

FIRE APPARATUS ACCESS ROADS

DHCD Note: The provisions of this appendix are not part of this code and are provided only as a resource for local governments in consideration of the adoption of local fire prevention regulations.

SECTION D101 GENERAL

D101.1 Scope. Fire apparatus access roads shall be in accordance with this appendix and all other applicable requirements of the *International Fire Code*.

SECTION D102 REQUIRED ACCESS

D102.1 Access and loading. Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an *approved* fire apparatus access road with an asphalt, concrete or other *approved* driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds (34 050 kg).

SECTION D103 MINIMUM SPECIFICATIONS

D103.1 Access road width with a hydrant. Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet (7925 mm), exclusive of shoulders (see Figure D103.1).

D103.2 Grade. Fire apparatus access roads shall not exceed 10 percent in grade.

Exception: Grades steeper than 10 percent as *approved* by the fire chief.

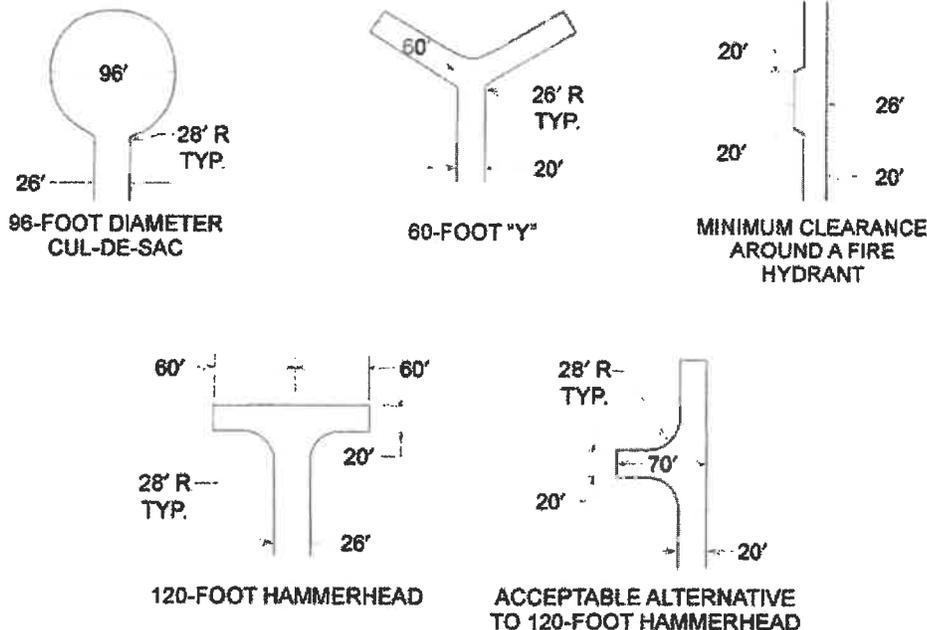
D103.3 Turning radius. The minimum turning radius shall be determined by the *fire code official*.

D103.4 Dead ends. Dead-end fire apparatus access roads in excess of 150 feet (45 720 mm) shall be provided with width and turnaround provisions in accordance with Table D103.4.

**TABLE D103.4
REQUIREMENTS FOR DEAD-END
FIRE APPARATUS ACCESS ROADS**

LENGTH (feet)	WIDTH (feet)	TURNAROUNDS REQUIRED
0-150	20	None required
151-500	20	120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac in accordance with Figure D103.1
501-750	26	120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac in accordance with Figure D103.1
Over 750	Special approval required	

For SI: 1 foot = 304.8 mm.



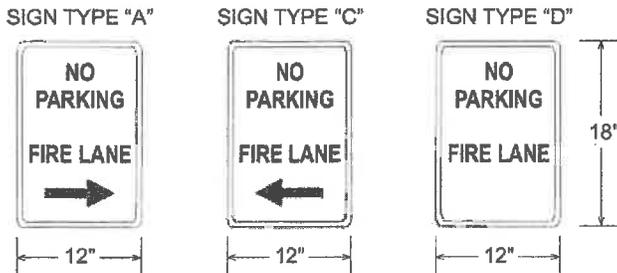
For SI: 1 foot = 304.8 mm.

**FIGURE D103.1
DEAD-END FIRE APPARATUS ACCESS ROAD TURNAROUND**

D103.5 Fire apparatus access road gates. Gates securing the fire apparatus access roads shall comply with all of the following criteria:

1. The minimum gate width shall be 20 feet (6096 mm).
2. Gates shall be of the swinging or sliding type.
3. Construction of gates shall be of materials that allow manual operation by one person.
4. Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.
5. Electric gates shall be equipped with a means of opening the gate by fire department personnel for emergency access. Emergency opening devices shall be approved by the fire code official.
6. Manual opening gates shall not be locked with a padlock or chain and padlock unless they are capable of being opened by means of forcible entry tools or when a key box containing the key(s) to the lock is installed at the gate location.
7. Locking device specifications shall be submitted for approval by the fire code official.
8. Electric gate operators, where provided, shall be listed in accordance with UL 325.
9. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F 2200.

D103.6 Signs. Where required by the fire code official, fire apparatus access roads shall be marked with permanent NO PARKING—FIRE LANE signs complying with Figure D103.6. Signs shall have a minimum dimension of 12 inches (305 mm) wide by 18 inches (457 mm) high and have red letters on a white reflective background. Signs shall be posted on one or both sides of the fire apparatus road as required by Section D103.6.1 or D103.6.2.



**FIGURE D103.6
FIRE LANE SIGNS**

D103.6.1 Roads 20 to 26 feet in width. Fire lane signs as specified in Section D103.6 shall be posted on both sides of fire apparatus access roads that are 20 to 26 feet wide (6096 to 7925 mm).

D103.6.2 Roads more than 26 feet in width. Fire lane signs as specified in Section D103.6 shall be posted on one side of fire apparatus access roads more than 26 feet wide (7925 mm) and less than 32 feet wide (9754 mm).

**SECTION D104
COMMERCIAL AND INDUSTRIAL DEVELOPMENTS**

D104.1 Buildings exceeding three stories or 30 feet in height. Buildings or facilities exceeding 30 feet (9144 mm) or three stories in height shall have at least two means of fire apparatus access for each structure.

D104.2 Buildings exceeding 62,000 square feet in area. Buildings or facilities having a gross building area of more than 62,000 square feet (5760 m²) shall be provided with two separate and approved fire apparatus access roads.

Exception: Projects having a gross building area of up to 124,000 square feet (11 520 m²) that have a single approved fire apparatus access road when all buildings are equipped throughout with approved automatic sprinkler systems.

D104.3 Remoteness. Where two fire apparatus access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the lot or area to be served, measured in a straight line between accesses.

**SECTION D105
AERIAL FIRE APPARATUS ACCESS ROADS**

D105.1 Where required. Where the vertical distance between the grade plane and the highest roof surface exceeds 30 feet (9144 mm), approved aerial fire apparatus access roads shall be provided. For purposes of this section, the highest roof surface shall be determined by measurement to the eave of a pitched roof, the intersection of the roof to the exterior wall, or the top of parapet walls, whichever is greater.

D105.2 Width. Aerial fire apparatus access roads shall have a minimum unobstructed width of 26 feet (7925 mm), exclusive of shoulders, in the immediate vicinity of the building or portion thereof.

D105.3 Proximity to building. At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (4572 mm) and a maximum of 30 feet (9144 mm) from the building, and shall be positioned parallel to one entire side of the building. The side of the building on which the aerial fire apparatus access road is positioned shall be approved by the fire code official.

D105.4 Obstructions. Overhead utility and power lines shall not be located over the aerial fire apparatus access road or between the aerial fire apparatus road and the building. Other obstructions shall be permitted to be placed with the approval of the fire code official.

SECTION D106**MULTIPLE-FAMILY RESIDENTIAL DEVELOPMENTS**

D106.1 Projects having more than 100 dwelling units. Multiple-family residential projects having more than 100 *dwelling units* shall be equipped throughout with two separate and *approved* fire apparatus access roads.

Exception: Projects having up to 200 *dwelling units* may have a single *approved* fire apparatus access road when all buildings, including nonresidential occupancies, are equipped throughout with *approved automatic sprinkler systems* installed in accordance with Section 903.3.1.1 or 903.3.1.2.

D106.2 Projects having more than 200 dwelling units. Multiple-family residential projects having more than 200 *dwelling units* shall be provided with two separate and *approved* fire apparatus access roads regardless of whether they are equipped with an *approved automatic sprinkler system*.

SECTION D107**ONE- OR TWO-FAMILY
RESIDENTIAL DEVELOPMENTS**

D107.1 One- or two-family dwelling residential developments. Developments of one- or two-family *dwelling units* where the number of *dwelling units* exceeds 30 shall be provided with two separate and *approved* fire apparatus access roads, and shall meet the requirements of Section D104.3.

Exceptions:

1. Where there are more than 30 *dwelling units* on a single public or private fire apparatus access road and all *dwelling units* are equipped throughout with an *approved automatic sprinkler system* in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3 of the *International Fire Code*, access from two directions shall not be required.
2. The number of *dwelling units* on a single fire apparatus access road shall not be increased unless fire apparatus access roads will connect with future development, as determined by the *fire code official*.

D108**REFERENCED STANDARDS**

ASTM	F 2200—05	Standard Specification for Automated Vehicular Gate Construction	D103.5
ICC	IFC—12	International Fire Code	D101.5, D107.1
UL	325—02	Door, Drapery, Gate, Louver, and Window Operators and Systems, with Revisions through February 2006	D103.5



**Orange County Planning Commission
Regular Meeting
September 3, 2020**

Agenda Item 5a

ORANGE COUNTY

PLANNING SERVICES

COMMUNITY DEVELOPMENT
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



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

MEMORANDUM

TO: Orange County Planning Commission

FROM: Sandra B. Thornton, Planning Services Manager

SUBJECT: SUP 20-01: Follow-up concerning bald eagle investigation

DATE: August 28, 2020

As discussed briefly during your August 6, 2020, meeting, staff had done preliminary research concerning the possibility of bald eagle nest sites near Woolfolk Lane. At that time, we had been able to find information no more recent than 2015 through the Center for Conservation Biology at The College of William and Mary. This week I was able to make contact with Tom Wittig, Eagle Coordinator, North Atlantic-Appalachian Region, Division of Migratory Birds, U. S. Fish and Wildlife Service. The email he sent as follow-up to our phone conversation is attached for your information. He advised that the local concerned citizen(s) had spoken with someone in their law enforcement office and that there is no actual investigation ongoing at this time into nest sites in the vicinity of the proposed project area. He went on to say that the Center for Conservation Biology currently provides the only map resource for nest sites in Virginia and that he regularly refers to that information himself. He advised that in recent years, eagles have been doing so well in Virginia that survey activity has been scaled back, with the primary focal area currently being along the James River; he said that little survey work is done west of the fall line.

Mr. Wittig also stated that confirming the presence of eagle nests is a relatively difficult undertaking, even from the air. He suggested that the county may want to consider asking the concerned citizens or the property owner to provide additional information concerning potential sites using the self-screening tool, a link to which he included in his email.

Tracey Newman

From: Sandra Thornton
Sent: Friday, August 28, 2020 4:19 PM
To: Tracey Newman
Subject: FW: [EXTERNAL] Bald eagles in Orange County, VA

Sandra B. Thornton
Planning Services Manager
Orange County, VA
128 W. Main St. Orange, VA 22960
(540) 672-4347 (P) (540) 672-0164 (F)

From: Wittig, Thomas W <thomas_wittig@fws.gov>
Sent: Thursday, August 27, 2020 1:48 PM
To: Sandra Thornton <sthornton@orangecountyva.gov>
Cc: Tracey Newman <tnewman@orangecountyva.gov>; Donald Brooks (External) <brooksdonald@hotmail.com>; Eric Lansing (elansing@orangecountyva.us) <elansing@orangecountyva.us>
Subject: Re: [EXTERNAL] Bald eagles in Orange County, VA

Hello Ms. Thornton,

Thank you for your time this afternoon.

As mentioned on our call, the impression of any ongoing investigation seems to have been a misunderstanding on the part of the concerned citizens that called our agency's Office of Law Enforcement.

The U.S. Fish and Wildlife Service has set of recommendations known as the National Bald Eagle Management Guidelines that are designed to help landowners and project proponents comply with the Bald and Golden Eagle Protection Act's prohibition against disturbance of nesting bald eagles. The Guidelines recommend "Avoid blasting and other activities that produce extremely loud noises within 1/2 mile of active nests, unless greater tolerance to the activity (or similar activity) has been demonstrated by the eagles in the nesting area."
<https://www.fws.gov/migratorybirds/pdf/management/nationalbaldeaglenanagementguidelines.pdf>

We have also created a self-screening tool based off the Guidelines that informs users how to appropriately gather and assess information, determine whether a proposed action may disturb nesting bald eagles, and avoid such risk.

https://www.fws.gov/northeast/ecologicalservices/pdf/eagle/NE_Bald-Eagle_Project-Screening-Form_rev20200416.pdf

For those projects that cannot comply with recommended avoidance measures and must risk unintentionally disturbing nesting bald eagles, Federal permits are available. The U.S. Fish and Wildlife Service only issues these permits if the project proponent has presented a qualified application and the effects are consistent with sustainable bald eagle populations.

<https://www.fws.gov/forms/3-200-71.pdf>

<https://www.fws.gov/migratorybirds/pdf/policies-and-regulations/3-200-71FAQ.pdf>

Please let me know if you have any other questions or concerns. For those interested, my contact information is available in the signature block below.

Thank you,
Tom

Tom Wittig

Eagle Coordinator | North Atlantic-Appalachian Region
Division of Migratory Birds | U.S. Fish and Wildlife Service
300 Westgate Center Drive
Hadley, MA 01035
Phone: 413-253-8577
Fax: 413-253-8424

From: Sandra Thornton <sthornton@orangecountyva.gov>

Sent: Wednesday, August 26, 2020 3:02 PM

To: Wittig, Thomas W <thomas_wittig@fws.gov>

Cc: Tracey Newman <tnewman@orangecountyva.gov>; Donald Brooks (External) <brooksdonald@hotmail.com>; Eric Lansing (<elansing@orangecountyva.us> <elansing@orangecountyva.us>

Subject: [EXTERNAL] Bald eagles in Orange County, VA

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Dear Mr. Wittig:

Orange County, VA has pending a special use permit application for fireworks activities on property located off Woolfolk Lane. Through citizen comment, we have been advised that FWS has opened an investigation into possible bald eagle nest sites in the vicinity. This matter was continued to the 9/3/2020 Planning Commission agenda, and I'm hoping to get additional information not later than COB tomorrow to be included in the agenda packages for next week's meeting. It would be helpful to know the status of any investigation; the timeline for completion of same; and how, from a federal regulatory point of view, the presence of nests impacts activity in the vicinity (along with some definition of what "the vicinity" is).

I look forward to hearing from you. If a phone conversation would be helpful, my mobile number is 540-920-7142.

Thanks for your assistance.
Sandra Thornton

Sandra B. Thornton
Planning Services Manager
Orange County, VA
128 W. Main St. Orange, VA 22960

(540) 672-4347 (P) (540) 672-0164 (F)

DARVIN E. SATTERWHITE
ATTORNEY AT LAW
P. O. BOX 325
3013 River Road West
GOOCHLAND, VIRGINIA 23063

804-556-4012
FAX 556-4849

E-mail: darwin@dsatterwhite.com
www.dsatterwhite.com

August 31, 2020

BY FIRST CLASS MAIL & EMAIL

Donald Brooks,
Chair, Planning Commission
9258 Everona Road
Unionville, Virginia 22567

Julie Zeijlmaker
Planning Commission
P.O. Box 773
Locust Grove, Virginia 22508

J. Jason Capelle,
Vice Chair, Planning Commission
6315 Spotswood Trail
Gordonsville, Virginia 22942
(540) 832-9092

Jim Hutchison
Planning Commission
525 Harrison Circle
Locust Grove, Virginia 22508

George Yancey
Planning Commission
16170 Cox Mill Road
Gordonsville, Virginia 22942

R. Mark Johnson,
Board of Supervisors, Liaison PC
4422 Spotswood Trail
Barboursville, Virginia 22923

Re: Mid Atlantic Pyrotechnic Arts Guild, Inc.
Special Use Permit Application, SUP 20-01
127± acres, Cardinal Garden & Gun LLC / Ed & Carol Hostetter

Dear Planning Commissioners &
The Honorable R. Mark Johnson, Board of Supervisors Liaison:

On behalf of my clients, Mid Atlantic Pyrotechnic Arts Guild, Inc., Cardinal Garden & Gun LLC, and Ed & Carol Hostetter, please accept the enclosed Rebuttal to Public Comment Emails in Opposition to the Proposed MAPAG SUP that I am submitting in response to various emails that have come to the County regarding the subject SUP application.

In more normal times, we would be presenting oral rebuttal to the public comments at the upcoming public hearing on September 3rd. However, in light of the fact that this public hearing will be conducted remotely we wanted you to have the benefit of our written responses prior to your hearing just as you have had the opportunity to consider the emailed comments.

I have tried to address the principal concerns that have been offered by those opposing the application, as well as to point out the significant support for the SUP that has been expressed by neighboring and nearby property owners.

We hope that this will be helpful to you in considering this important case.

Very truly yours,



Darvin E. Satterwhite

w/enclosures

Cc: Sandra B. Thornton, Planning Services Manager
Mid Atlantic Pyrotechnic Arts Guild, Inc.
Cardinal Garden & Gun LLC
Ed & Carol Hostetter

Mid Atlantic Pyrotechnic Arts Guild, Inc.
Special Use Permit Application, SUP 20-01
127± acres, Cardinal Garden & Gun LLC / Ed & Carol Hostetter
August 31, 2020

Submitted by Darvin E. Satterwhite,
Attorney of Applicants

**REBUTTAL TO
PUBLIC COMMENT EMAILS IN OPPOSITION
TO THE PROPOSED MAPAG SUP**

INTRODUCTION:

It is important to understand that MAPAG's proposed fireworks testing and display activities on the 127± acre farm on Woolfolk Lane are *not* something new to the County. This is *not* a land use matter for which the County has no past track record to rely upon. Rather, Orange County has been the home to hobbyist fireworks clubs, such as MAPAG, for more than 40 years *without incidence*. In fact, MAPAG has been operating in Orange County for many years now through County-issued fireworks permits and was happy to continue in that mode. During all that time, no one has had anything but positive things to say about MAPAG's fireworks displays. And, MAPAG has made it a point to contribute to the quality of life in the community by supporting such things as the Orange Vol. Fire Company's Annual Fair—which is a major fundraiser for the Fire Company. If these fireworks displays were provided by third party vendors, they would have cost in the neighborhood of \$8,000 per show, and yet they are provided by MAPAG free of charge as a public service. In this regard, MAPAG's activities have proven to be a benefit to the public and have served to enhance the cultural experience of County citizens.

But, in 2016, it was suggested by the County that it would be more efficient to change the prior practice by amending the County Zoning Ordinance to reduce the number of times MAPAG would need to apply for individual fireworks permits. Accordingly, MAPAG cooperated with the County when Orange County Code Section 70-1 was adopted to provide a SUP category in the agricultural zoning district for "*pyrotechnics testing/manufacturing*". Thus, it should be emphasized that this zoning ordinance amendment came about to *accommodate, not obliterate*, the fireworks activities that MAPAG had been providing in the County in the past and *are the very same type of activities it is now applying for under the proposed SUP*. MAPAG only wishes to continue doing what it has always been doing, except now the fireworks displays will be conducted on a more spacious property owned by Cardinal Garden & Gun LLC, whose principals are Ed & Carol Hostetter—both of whom are long-time MAPAG members.

Although a myriad of emails have been provided by opponents to MAPAG’s SUP (along with other emails from those who support the SUP), the complaints against our application boil down to a few basic categories. However, none of these complaints constitute valid grounds to deny the issuance of the SUP. In fact, the applicant’s proposed SUP conditions more than adequately address any possible impacts on nearby properties and offer a land use completely consistent with the County Comprehensive Plan. The principal complaints against the approval of our SUP are fully addressed as follows:

NOISE POSES NO CREDIBLE THREAT TO NEIGHBORS OR ANIMALS:

MAPAG fireworks displays would have a sound level of about 130 decibels at the point of detonation. However, many of those opposing the proposed SUP live miles away, with the vast majority even 4 to 15 miles away. As you can see from the noise charts below, the sound from one of the fireworks would dissipate to a 59.8 decibel level for those locations 2 miles away for the site—which would be the equivalent sound of “*conversational speech or an air conditioner.*” The farther you move away the sound would become barely noticeable.

In addition, the sound from MAPAG displays will only be occurring for a short duration. In this regard, we have proposed limiting display hours to *only Fridays and Saturdays from 7 p.m. to 11 p.m. with limited testing between 1 p.m. and 4 p.m.* The 11 p.m. curfew is necessary since “dark sky” may not occur until after 9:30 p.m. during summer months. The curfew is also a safety necessity, as conditions may not be favorable at “dark sky” for discharging fireworks (wind, lightning, rain). A further proposed SUP condition allows displays only *once per month* in May, June, July, September and October, with *only 1 weekend* allowed in any month. There will be no events in August.

With such limited decibel levels over extremely restricted time periods, noise from this proposed SUP would not be an issue for any reasonable person, and is certainly a matter that ~~our~~ the proposed conditions more than adequately address. For more information, please see the charts and data provided below. For example, the following table shows the decibel levels of sound for various origin decibel levels when carried over a specified distance.

Decibel Levels Dissipated Over Distance

Origin in Decibels	100 Ft.	500 Ft.	1000 Ft.	¼ Mile	½ Mile	¾ Mile	1 Mile	2 Miles
90 dB	60.3	46.3	40.3	37.9	31.9	28.4	25.9	19.8
100 dB	70.3	56.3	50.3	47.9	41.9	38.4	35.9	29.8
110 dB	80.3	66.3	60.3	57.9	51.9	48.4	45.9	39.8
120 dB	90.3	76.3	70.3	67.9	61.9	58.4	55.9	49.8
130 dB	100.3	86.3	80.3	77.9	71.9	68.4	65.9	59.8
140 dB	110.3	96.3	90.3	87.9	81.9	78.4	75.9	69.8

To put these sound levels into perspective, it is important to have a frame of reference to understand these values. The following table shows the types of activity that would normally be encountered for various decibel levels.

Noise Levels Chart for Common Activities

Decibels	
0	Human hearing threshold
10	A pin dropping
20	Rustling leaves
30	Whisper
40	Babbling brook, computer fan
50	Light vehicle traffic, refrigerator
60	Conversational speech, air conditioner
70	Shower, dishwasher
80	Alarm clock, garbage disposal
85	Passing a diesel truck, snow blower
90	Lawn mower, arc welder
95	Food processor, belt sander
100	Riding a motorcycle, handheld electric drill
105	Sporting event, table saw
110	Rock band, jackhammer
115	Emergency vehicle siren, riveter
120	Thunder clap, oxygen torch
125	Balloon popping
130	Peak stadium crowd noise, AERIAL SALUTE
135	Air raid siren
140	Jet engine at takeoff
150	Jet fighter launch

Source: <http://www.noisehelp.com>

Although we strongly believe that those opposing our application have grossly overstated noise concerns, we nevertheless have been sensitive to their comments by amending our proposed SUP conditions. While NFPA-1123-2018 permits salutes up to five inches (5”) in diameter, under our amendment to the proposed SUP conditions, salutes will be limited to four inches (4”) or less in any dimension. And, fireworks that exceed NFPA code limitations shall be strictly prohibited. By restricting salutes to four inches (4”), the volume of pyrotechnic material is reduced by 49% (33.51 in³ vs. 65.45 in³). It is further noteworthy that four-inch (4”) salutes are used in the vast majority of displays throughout America.

If noise were truly a threat to property owners or animals, you would expect most adjoining and nearby property owners to be opposed to the proposed SUP. However, that is definitely not the case. Consider the following emails that have been submitted to you as part of

the Planning Commission's acceptance of public comments which come from adjoining and nearby property owners:

- **Kelly Goforth Adams**, who resides at 24401 Montvue Lane, supports the SUP and writes: "Other than Mrs. Edwards, I probably live the closest to the proposed site . . . Since Eddie [Hostetter] purchased the farm, he has worked on many improvement projects and the farm looks great. . . I believe he is going to be an asset to the little community we have in this area. . . and honestly, *I am looking forward to having my own backyard show every once in a while . . .*"
- **John Goforth** states: ". . . I live adjacent to the Hostetters. Since they have moved into their property they have been busy getting the farm presentable . . . They have been good neighbors . . . *I am for their application to be approved for a special use permit.*"
- **Devon Adams** writes: "I live in very close proximity . . . *I think this is going to be awesome.* Who am I to say what another man can or can't do on his own property? As a disabled veteran I feel that is something I hoped to have fought for . . . my neighbors and *I have always been a fan of fireworks.*"
- **Jason Goforth** is a farmer who actually rents land from the Hostetters adjoining the MAPAG site. Mr. Goforth states that he and his wife operate Renewed Pastures Farm and raise beef cattle and poultry for egg production. He goes on to quell any fears that relate to noise disturbing his cattle or chickens by stating: "*I have given great thought to how the addition of recreational fireworks could affect the welfare of our animals and I'm confident, after hearing the testimony of the gentleman from the applicant group regarding the noise levels of their 4" shells, that our animals will have minimal to zero impact from these events.*"
- **Nicole Pappas**: One of the most enlightening emails does not come from an immediate neighbor to the subject SUP property. Rather, it comes from **Nicole Pappas** who, along with her husband, is a MAPAG member and supports this SUP application. She further indicates that she a resident of **Lake of the Woods** and that many of her neighbors in L-O-W's also support this SUP. What is so very interesting about her comments is that she points out: ". . . *I am aware others do not [support the SUP], even though they (residents of LOW) support their own 4th of July fireworks display, which must be one of the largest in the County. . . I question the veracity of individuals who support having their own fireworks, and do not support MAPAG.*"
Her point is well taken.

THE PROPOSED USE WILL HAVE NO ADVERSE EFFECTS
ON EAGLE ROOSTS AND NESTING:

The Center for Conservation Biology (CCB) is a research group within The College of William and Mary and the Virginia Commonwealth University. The CCB website includes a “CCB Mapping Portal” that shows eagle nesting sites in Virginia. For the most part, “bald eagles generally nest near coastlines, rivers, large lakes or streams that support an adequate food supply.”¹ When reviewing the CCB map attached hereto as Exhibit “A”, this is clearly demonstrated in the areas of Virginia, including Orange County. According to this CCB map, the closest eagle nest to the MAPAG site in Lahore is located over 4 miles away in Louisa County. (See Exhibit “B” attached hereto.) And, according to the “National Bald Eagle Management Guidelines” published by the U.S. Fish and Wildlife Service, explosives such as fireworks can safely be used if a 1/2 mile buffer exists between active eagle nests or communal roosts.² This 1/2 zone is the preferred protective buffer area for any such loud noises during the nesting and breeding seasons. We are more than eight times farther away from any known eagle nest than the recommended 1/2 mile buffer. Therefore, our relatively infrequent fireworks displays are certainly no threat to any known eagle populations in the immediate area.

Furthermore, Sandra Thornton’s August 28, 2020 Memorandum to the Planning Commission confirms the accuracy of the foregoing information, and also clarifies that the rumor indicating that the MAPAG site is under investigation by the U. S. Wildlife Service is patently false.

However, even if an eagle nest were closer to the MAPAG site, it does not follow that our proposed SUP would pose any significant risks to eagles. The reason for this is that much of the time period for our proposed activities are outside of the eagle breeding/nesting season—which in Virginia runs from December 15 through July 15.³ And, by limiting our activities to just one event per month (with no events in August), MAPAG’s activities would be less disturbing to eagles than the typical noise from such benign activities as local hunting or target shooting.

Furthermore, a study found in the Journal for Raptor Research⁴, which is cited as authoritative by both the U.S. Fish and Wildlife Service and the Virginia Department of Game and Inland Fisheries in their guidelines, has documented the fact that some loud explosive noises may not actually disturb eagle breeding and nesting. The study found that eagles subjected to loud noise exceeding 120 dB from military bases using heavy artillery shells showed virtually no adverse effects upon breeding or nesting. This study found that: “Nest success and productivity on [the Aberdeen Proving Ground in Maryland] did not differ from nest success and productivity in adjacent counties of Maryland from 1990-95, suggesting that weapons-testing noise did not influence eagle reproduction at the population level.”

Therefore, our opponents' suggestion that MAPAG's limited activities would be detrimental to any eagle populations is wholly without any basis to support it.

APPLICANT'S PROPOSED LAND USE
IS WHOLLY CONSISTENT WITH THE COMPREHENSIVE PLAN:

The Orange County Comprehensive Plan sets forth various desirable goals that are furthered by our proposed SUP. For example, consider the following matters as provided in the Comprehensive Plan:

Page 15 of the Comprehensive Plan: "Objective B: Sustain and enhance agricultural and forestall uses. Strategies for Implementation: Permit and encourage" . . . "outdoor recreational uses" with an emphasis on "cultural" matters:

- MAPAG's fireworks displays are exactly the kind of "outdoor recreational" activities that are not only beneficial to MAPAG's members, but also makes a valuable contribution to the community. In this regard, and as previously mentioned, MAPAG has provided free fireworks displays supporting the Orange Vol. Fire Company's Annual Fair. In addition, such activities are enjoyed by the public and enhance the cultural experience of County citizens.

Pages 18 & 55 of the Comprehensive Plan: The Comprehensive Plan expresses the need to *promote tourism* (See: Objective E), and also stresses the need to sustain: "*The health of the local economy in general, and the level of businesses' activity directly, are the dominant factors in Orange County's fiscal soundness.*"

- MAPAG's activities meet both of these worthwhile goals of the Comprehensive Plan. While we attract local members to our events, MAPAG's members come from across the Commonwealth of Virginia and several other states as well. This provides a membership base that visits here from outside the immediate area of Orange County with the potential of spreading the news regarding the County's beauty. Consequently, the prospects of tourism in Orange County is greatly increased.
- This tourism also provides immediate tangible economic benefits to Orange County. A poll of MAPAG members reveals an average of \$200 per person is spent on gas, food, and supplies for each weekend meeting. A typical monthly meeting of 35 members would generate \$7,000 in economic activity. The September meeting, with 75 members (not including additional family members and guests) in attendance would generate \$15,000. Materials and supplies purchased by MAPAG adds an additional \$12,000. Accordingly, the total annual economic benefits to the County from MAPAG's activities would be at least \$55,000, computed as follows:

May, June, July & October: 4 x \$7,000 =	\$28,000
September	\$15,000
MAPAG general supplies	<u>\$12,000</u>
Annual Impact	\$55,000

Please note that the estimated total fiscal impact of \$55,000 is conservative and does not include monies spent on lodging which would further add to the total positive impact.

Page 25 & 26 of the Comprehensive Plan: A1 District: “Protect the rural, agricultural, historic & conservation areas by preserving open space, limiting population and allowing little or no development. . .” “B. Land Use Map—A1 should remain largely protected from residential and commercial growth.”

- Investments in the site to date by the landowner to restore it to the good working order for farming activities have been approximately \$161,000. This includes a tractor, mower, root grapple, UTV, culvert repair, forestry mulching, storage container, grass seed and road repair. All products and services were sourced from local businesses. These investments by the landowner have greatly enhanced the agricultural features of the property in furtherance of the Comprehensive Plan’s goals for this area. Furthermore, please see the email provided as part of the public comments from Randy Hovey summarizing the work he performed for the landowner in removing dead trees, reclaiming fence lines, removing overgrowth in the pastures, replacing culverts, work related to the old barn and repairing the access lane.
- The Comprehensive Plan encourages the preservation of agricultural land uses in this area. The MAPAG proposed land use will allow the present owner to continue to raise cattle and produce hay and other farm crops on the property, rather than having to sell the land as subdivided parcels. Such a residential subdivision would be a move away from the rural and agricultural goals of the Comprehensive Plan that would be fostered by MAPAG’s proposed use. It is noteworthy that a residential subdivision plan was previously developed for the subject property as shown on Exhibit “C” attached. This subdivision plan would have produced three homes which would typically generate an average of 9.6 vehicular trips per day* for a total of approximately 29 additional trips to and from the property, literally every day of the year. By comparison, MAPAG’s traffic is extremely minimal and would occur during only 5 weekends a year. *(See: Federal Highway Administration, Department of Transportation, data provided at <https://www.fhwa.dot.gov>.)

**THE PROPOSED FIREWORKS DISPLAYS POSE
NO ENVIRONMENTAL HAZARDS:**

Fireworks are constructed using cardboard, pasted paper, and clay. At the cessation of each event, club members walk the field to pick up any recoverable fireworks debris. Any paper debris smaller than a quarter are quickly degraded in the field. The pyrotechnic materials used in fireworks are generally black powder, or some variant of black powder with other components. Black powder is generally considered non-toxic to humans, plants, and animals. The primary ingredients in black powder are potassium nitrate (fertilizer), charcoal and sulfur. When these materials are burned in a fireworks item, the pyrotechnic materials are consumed in a reaction yielding gasses and colored flames for effects. The chemistry behind these formulations requires oxygen and fuel to be balanced to consume both the oxidizer and the fuel in the reaction. The byproducts of these reactions are usually CO₂ potash, and other common elements—**none of which create toxic hazards.**

We have had John Steinberg, MD, who is a technical expert and adviser to MAPAG for the purposes of the SUP application, to review the information from various alleged “studies” and articles referenced by our opponents in their emails. Dr. Steinberg has a BS in Biochemistry from Michigan State University, and MD from the University of Maryland, School of Medicine, and serves on three technical committees at NFPA that produce fireworks related code. He has been accepted as an expert on matters related to fireworks (including health and injuries) in both federal and state jurisdictions and has never been disqualified as an expert in forensic matters. Dr. Steinberg’s detailed analysis is provided in MAPAG’s supplement to the SUP application dated July 20, 2020, previously filed in this case and reference to which is hereby made. Ultimately, Dr. Steinberg concluded that the so-called “*environmental hazards*” alleged by opponents to the SUP are wholly without merit. He provided the following conclusions:

“In summary, the ‘technical’ objections submitted have the following critical flaws:

1. They are not conducted by health professionals nor published in recognized, peer reviewed, medical journals.
2. The submitters lack any technical or medical training.
3. The objections relate to CONSUMER fireworks which are NOT the subject of the MAPAG SUP proposed activities which instead focus on DISPLAY fireworks.
4. The most well-recognized environmental sampling study, of Lake Buena Vista, at Disney World in Florida, where professional DISPLAY fireworks displays have been conducted every evening for decades, has NOT demonstrated any adverse environmental effects or pollution related to

DISPLAY fireworks activities. Were it not for COVID-19 related closures, these displays would be ongoing even today.

5. The references to toxins that are already banned is especially disturbing. If consumer fireworks are, indeed, found at time of import, during Consumer Products Safety Commission inspections, to contain lead or mercury, or arsenic, etc., they can be immediately seized, impounded, and ordered destroyed at the importers' expense. The allegation of lead pollution from fireworks, a common thread in all the objectors' technical submittals, is simply NOT found upon analysis by others."

As you can see, when these baseless claims regarding the alleged environmental hazards of our proposed fireworks activities are dissected by an expert in the field, it becomes clear that they are specious at best, if not deliberately misleading.

With respect to general trash generated by MAPAG's events, there is only a small amount of trash and other refuse produced by the club's activities. All of the trash is collected and removed from the farm at the end of each event.

Accordingly, there is no basis whatsoever to support the claim that our proposed SUP will cause any adverse environmental effects whatsoever.

THE PROPOSED USE IS A NOT A "CAMPGROUNDS" ACTIVITY:

Some of the earlier emails opposing our SUP asserted that MAPAG will supposedly be operating a "campground" on the property. The basis for such an erroneous assertion was never made clear. In any event, a "*campground*", as defined in Sec. 70-1 of the Orange County Zoning Code, is an activity which offers accommodations to *paying guests* from the *general public*. Our SUP specifically clarifies that we are only concerned with "*dry camping and group assembly*" which is specifically defined as on-site over-night stays *solely by members* of MAPAG and specifically *excludes the general public*. Therefore, this argument submitted by opponents to the SUP is as invalid as their foregoing contentions.

CONCLUSION:

Both MAPAG's previous record of providing non-intrusive, safe and community enriching fireworks displays and testing, and its proposed SUP conditions assures that its pending application should be recommended by the Planning Commission to the Board of Supervisors for approval.

To the extent that the Planning Commissioners may have any questions or concerns regarding the issues addressed herein, or any other matters of concern, we would be happy to answer them at the upcoming Planning Commission meeting. Or, if you would like to discuss this SUP application directly with me, please do not hesitate to give me a call.

Respectfully submitted,

 *attorney for applicant*
Darvin E. Satterwhite, Attorney for Applicant

¹ “National Bald Eagle Management Guidelines,” U.S. Fish and Wildlife Service, (May 2007) page 4.

² Ibid. page 14.

³ “Bald Eagle Protection Guidelines for Virginia,” Virginia Field Office, U.S. Fish and Wildlife Service and the Virginia Department of Game and Inland Fisheries (May 15, 2000), p. 4.

⁴ Brown, B.T., G.S. Mills, C. Powels, W.A. Russell, G.D. Therres and J.J. Pottie. 1999. “The influence of weapons-testing noise on bald eagle behavior.” *Journal of Raptor Research* 33:227-232.

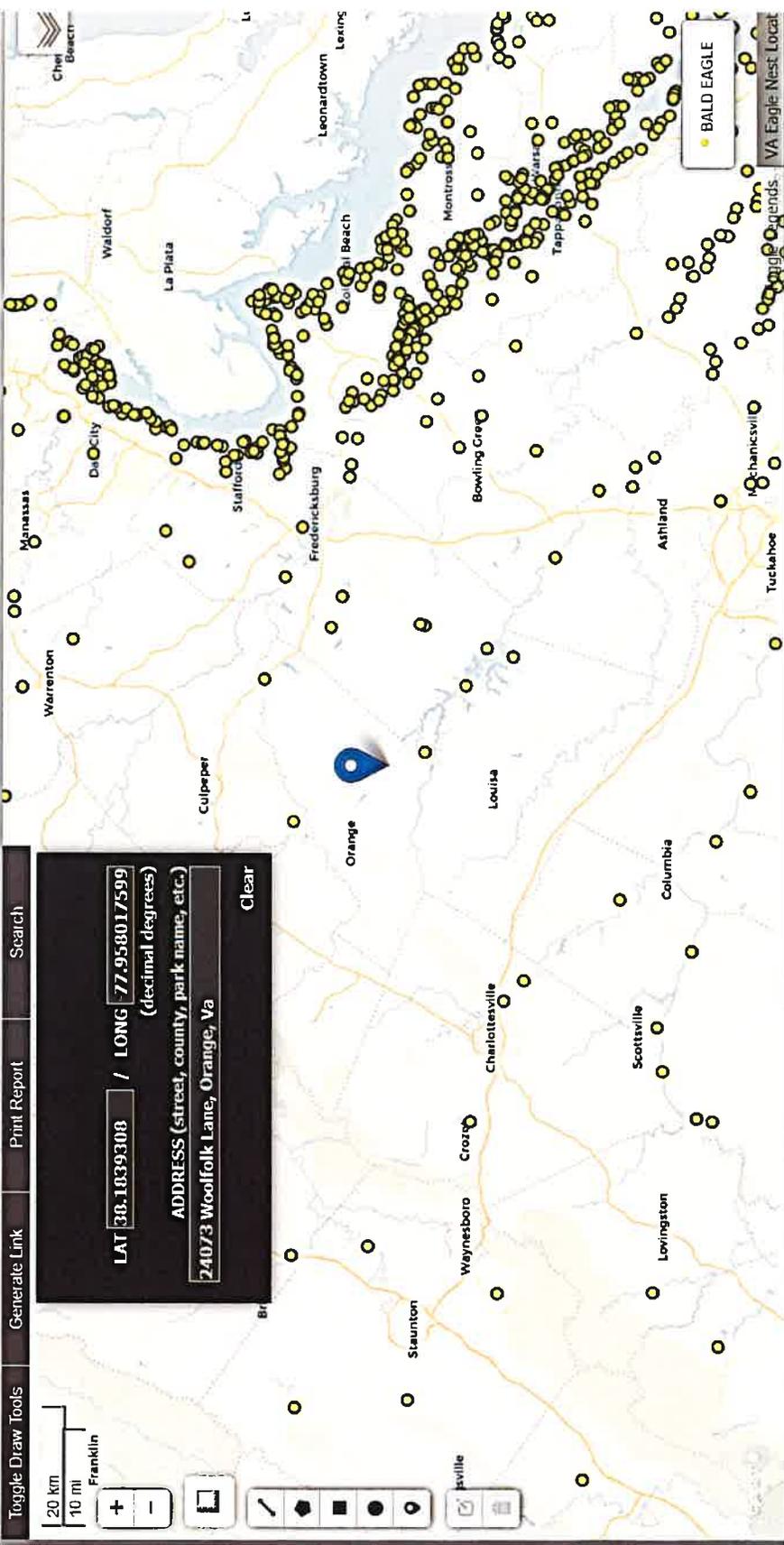


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- What We Do
- Resources
- News Room
- Give to CCB

[Help / FAQ](#)

CCB MAPPING PORTAL



Layers

- Bald Eagle
 - VA Eagle Nest Locator
 - Zoom to Extents
- Most recent data CCB has on bald eagle nest locations in Virginia. Data is largely from two annual aerial flights conducted in winter and spring of all tributaries of the lower Chesapeake Bay and other prominent bodies of water. Reported ground survey data is also included.
- More info
- VA Eagle Nest Buffers
- Eagle Roosts
- Eagle Roost Polygons
- Eagle Roost Buffers
- Eagle Roosts by Topoquad
- Waterbirds
 - Shorebird Roost Registry
 - Colonial Waterbirds 2018
 - Colonial Waterbirds 2013

EXHIBIT "A"

Layers

- Bald Eagle
 - VA Eagle Nest Locator
 - Zoom to Extents

Most recent data CCB has on bald eagle nest locations in Virginia. Data is largely from two annual aerial flights conducted in winter and spring of all tributaries of the lower Chesapeake Bay and other prominent bodies of water. Reported ground survey data is also included.

More info

- VA Eagle Nest Buffers

The smaller 330' "primary buffer" is where human activities are considered to be detrimental to breeding pairs (e.g. residential/commercial development). The larger 660' "secondary buffer" is where human activities are considered to impact

Toggle Draw Tools Generate Link Print Report Search

1 km 3000 ft + -

Measure Distances and A

Last Point

38° 11' 01.28" N / 77° 57' 29.25" W
38.183688 / -77.958126

Path Distance 21,370 Feet (4.05 Miles)

Cancel Finish Measurement

LAT 38.1839308 / LONG -77.958017599 (decimal degrees)

ADDRESS (street, county, park name, etc.)
24073 Woolfolk Lane, Orange, VA

Clear

VA Eagle Nest Locator

Toggle Legends

EXHIBIT "B"

THIS IS A
 PARTIAL MAP OF
 THE TRACT OF LAND
 BEING
 THE TRACT OF LAND
 BEING
 THE TRACT OF LAND
 BEING



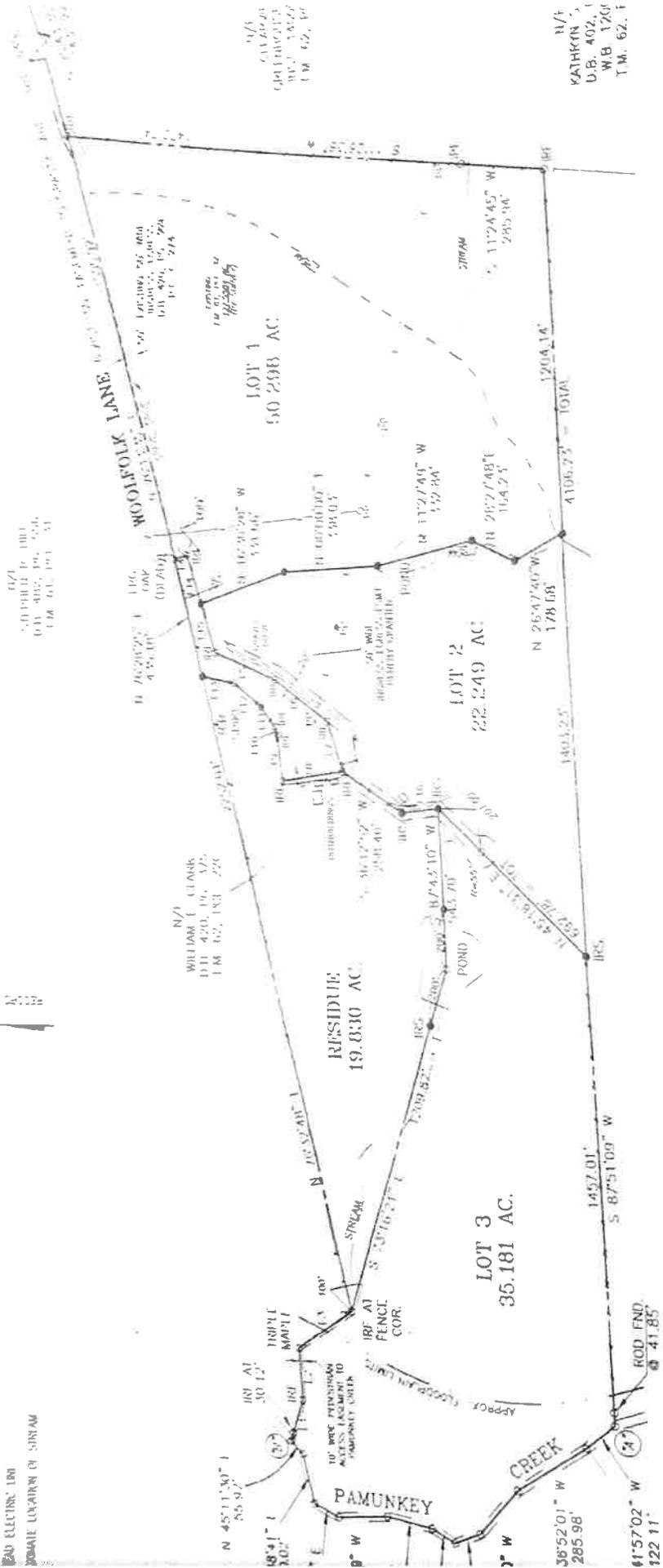
ROD FND
 ROD FND
 ROD SHT
 POLE
 LEAD ELECTRIC LNE
 SQUARE LOCATED IN SURVAY

N/4
 JOHN W. GOFORTH, JR.
 D.B. 650, PG. 116
 T.M. 61, PCL. 33

N/4
 WILLIAM C. CLARK
 D.B. 420, PG. 57
 T.M. 62, PCL. 27

N/4
 CLAYTON
 CAPTAIN
 D.B. 342
 T.M. 62, PCL. 10

N/4
 KATHRIN
 D.B. 402, PCL. 1
 W.B. 120
 T.M. 62, PCL. 1



N/4
 JOHN W. GOFORTH, JR.
 D.B. 650, PG. 116
 T.M. 61, PCL. 33

SUBDIV

LINE TABLE
 BEARING DISTANCE

EXHIBIT "C"