

## **Summary of Zoning and Subdivision Ordinances Changes – July 27, 2017**

### **MIXED USE**

Various discussions have taken place around the concept of Mixed Use. The Comprehensive Plan calls for Mixed Use, but no Business zoning district on the Future Land Use Map. With the understanding that the Town's ultimate desire is to not lose commercial property and businesses to principally residential uses, the residential use within the B-1 district was altered to require a special exception permit from Town Council. In addition, mixed-use development was also included as a use requiring a special exception permit.

In discussions with Martin Crim, the potential issue with a special exception is that it must be approved if the conditions can be met. A few alternatives were discussed, including an overlay district with additional conditions and the creation of an additional zoning district that could act as a buffer between residential districts and the commercial business district/B-1 zoning district. This would entail removing residential uses from the B-1 and adding it to the newly created district. By doing this, anyone wanting to create a residential use on a parcel zoned B-1 would be required to rezone the property.

After discussing these options with Town Council, it appeared that Council would prefer an overlay or alternative to creating a new zoning district. It was brought up during the Town Council work session that the creation of a new district would require modification of the future land use map in the Comprehensive Plan in order to designate a buffer area between B-1 and residential zoning designations.

Based on the discussions with Martin Crim, the preferred route from a legal perspective is to create a new district where residential can be mixed with commercial uses and act as a buffer between the main business district and existing residential areas. If this district is adopted, then residential uses and mixed-use should be removed from the proposed Special Exception section of the B-1 district.

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MIXED-USE (MU) DISTRICT (would need to be added to Article II of Ordinance and included in the Establishment of Districts, 6-41).

### **Statement of Intent**

The MU district is intended to encourage and accommodate various types, sizes, and housing densities combined with supporting commercial and institutional uses that provide increased residential services within the district and to the Town as a whole. It provides for a variety of housing types and allows for mixing of uses in a manner and scale that promotes the historic character of the town and encourages an environment that is not specifically motor-dependent. This district is designed to act as a buffer between the B-1 zoning district and the residential districts.

### **Uses Permitted**

Bakeries.

Barbershops and Beauty Shops.

Bed and Breakfasts.

Duplexes.

Homestays.

Laundry Facilities.

Libraries.

Multi-family dwellings.

Office Buildings.

Public Assembly, less than 25 seats.

Public Utilities, including poles, lines, distribution transformers, pipes, meters or other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities.

Restaurants, eating places.

Retail.

### **Uses Permitted by Special Exception**

Child Care Facilities.

Places of Assembly.

### **Signs Permitted**

Signs shall be in conformance with Article VIII of this Chapter.

### **Setback Regulations**

Buildings shall be located five feet or more from any street right-of-way that is 50 feet or more in width, or 35 feet or more from the centerline of any street right-of-way less than 50 feet in width. This shall be known as the setback line.

For those lots included in the plat recorded in the clerk's office of the county circuit court on January 7, 1805, the setback line may be 30 feet from the center of the street.

### **Height Regulations**

Buildings may be maintained or erected up to 35 feet in height from the average of the finished ground level adjoining the building at all exterior walls; except that:

- (a) A public or semi-public building, such as a school, library or general hospital, may be erected to a height of 60 feet from grade, provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.
  - (b) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennas and radio aerials are exempt. Parapet walls may be up to four feet above the height of the buildings on which the walls rest.
  - (c) No accessory building may be more than one story tall.
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## **VENDING MACHINES**

The Town and the ARB do not want vending machines within the Historic District. One option is to consider them outdoor display and sales, and prohibit such uses. This could cause an issue with existing businesses, if they wanted to have an outdoor sale (sidewalk sale, etc). Another option is to consider vending machines as a type of sign and regulate them through the sign section of the Zoning Ordinance. The question for that route is whether it is considered a sign if there is no signage on it (i.e. a plain black sided machine with various snacks).

An idea that was discussed by Town Council was to prohibit automated display and sales within the B-1 District, including the Historic District. This would not prohibit sales and displays that are not automated, including bagged ice coolers.

The Town of Vienna has development standards for C-1B zone that specifically state: no vending machines outside of wholly enclosed building.

Martin Crim would like vending machines to be included within the sign regulations.

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Add vending machines to 66-364. Prohibited Signs

- (a) 7. Vending machines within the Old and Historic Occoquan District outside of a wholly enclosed structure.

## **AIR B&B AND OTHER SIMILAR TEMPORARY RESIDENTIAL RENTAL**

The question of how to regulate Air B&B and other such uses has been presented by Town Council and Martin Crim. One option is to include them as a “Homestay” and have a specific Homestay permit that is required, which will create a registry of all those permitted within the Town. This could be a yearly permit that verifies that all appropriate taxes have been paid to the Town.

This would be considered an accessory use to a residential use and permitted in residential districts. A concern was raised about this type of use within duplexes, apartments, or other multi-family dwellings. This is an issue that Town Council will need to determine – where is it most appropriate to permit temporary stays?

Based on conversations with both Town Council and Martin Crim, the Town does currently contacts those residents using Air B&B, or similar application, online and contacts them to have them come into compliance with tax requirements. Including a homestay definition, similar to that used in Charlottesville and Blacksburg (both smaller towns), and a homestay occupation certificate similar to the home occupation certificate would allow for a registry of those houses being used as temporary rentals.

Also within this discussion with Martin was a discussion about boarding houses and whether they exist or are an issue currently with the Town. They are currently a definition, but to his knowledge were not an issue if they did exist within the Town.

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Include Definition in 66-8

Homestays	A home occupation use, which is accessory to the primary use of a residential dwelling unit or a portion thereof, intended for short term rental as transient
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lodging in exchange for a charge for the occupancy. The primary use of the dwelling unit shall remain residential.

Modify 66-10 to include Homestays requiring a Home Occupation Certificate and include conditions.

(b) Homestay Home Occupation Certificates

1. Use shall remain residential.
2. No signage shall be permitted.
3. Registration shall be valid from January 1 through December 31 of each year.
4. Appropriate Transient Occupancy Taxes shall be paid to the Town.
5. Only one such Home Occupation shall be granted per property owner.
6. The maximum length of stay is 30 days in any 365 day period.

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## **TINY HOUSES**

The concept of “Tiny Houses” is that it is a small house structure on a chassis, much like a Recreational Vehicle. While mobile homes and houses that are small in size may be permitted, the difference is that they are regulated by various manufacturing and code standards. The Zoning Ordinance would consider this type of “Tiny House” to be a recreational vehicle based on the configuration of the “house” and the current definitions within the Ordinance. If the Zoning Ordinance would not permit permanent occupancy within a recreational vehicle on a property or the use of a property as an “RV Park” or campground, then it is not a permitted use.

## **FOOD TRUCKS**

There are several options regarding food trucks. One concern is food trucks within the right-of-way. Another concern is food trucks taking away business from the existing restaurants in the historic district. At the same time, there appears to be a desire to have the option to include food trucks during the Town’s festivals throughout the year.

One option is to include food trucks as a use in the B-1 district, but only during Town-sponsored events that are open to the public. This could further be specified to only apply to specific Town festivals held twice yearly.

Additional considerations, if desired by Council, are to include the use more broadly with restrictions that the food trucks must be a certain distance from other restaurants, residences, or other uses, cannot be within the public right-of-way, and only operate during certain hours.

Based on comments from Martin Crim, there is a concern with restricting the location of the use without a solid basis in public health, safety, and welfare. Additionally, he notes that food trucks can be useful to help expand existing restaurants by having a mobile source.

Definition included in Section 2.

Can be included in B-1 section and permitted as a by-right use on a B-1 property.

Depending on the needs and wants of Town Council, conditions may be added if they are in keeping with protecting the health, safety, and welfare of the Town.

### **HOLIDAY DECORATIONS**

Include Temporary Seasonal Display as accessory to the principal use within all districts with a 30-day allowance. Martin Crim is concerned with the legality of permitted additional time between Thanksgiving and mid-January due to the potential that it is permitting one holiday more time than other holidays.

Permitted Uses:

Temporary Seasonal Display, with the following conditions:

1. Display may not be present for more than 30 days, and
2. Display must be accessory to the principal use of the property.

### **ELECTRONIC SUBMISSION**

If Town Council wishes to encourage electronic submission, of site plans and subdivision applications, modification would be required to the submission requirements of the Subdivision Chapter (Chapter 54), Site Plan Chapter (Chapter 46), and references within the Zoning Chapter (Chapter 66).

A minimum of one original, hard copy of the submission package and a CD-ROM or flash drive with the full package in pdf format should be required.

### **SLOPES**

There were a few different conversations regarding slopes. It was expressed as a concern that steep slopes not be developed. While revising and updating the ordinance, it was noted that steep slopes are addressed within the Chesapeake Bay Preservation Overlay District. Virginia Code references were updated and modified as needed within that section to reflect the current Code.

Martin Crim discussed that it was a critical issue and that there was previous litigation with the Town regarding steep slopes. In looking back through the ordinance, Virginia Code sections, as well as other local ordinances, the current Chesapeake Bay Preservation Overlay District appears to be consistent with the Code and similar sections in other localities.

### **PARKING**

Understanding that parking is an issue, parking standards and requirements appear to be in line with other areas. There may be a need for the Town to have a comprehensive parking study that can fully examine alternatives to help alleviate parking issues during peak times.

## **CHURCHES & ASSEMBLY**

There was concern about specifically segregating church uses from other types of public assembly. One idea that was discussed was two separate uses for assembly; public assembly and religious assembly. This option would differentiate between those uses that are generally in nature and those that are religious in nature. Martin Crim was not comfortable with the validity of separating the two uses and the impact of the Religious Land Use and Institutionalized Persons Act (RLUIPA).

From that conversation, it was discussed that combining all assembly uses and then restricting them by size within various districts would be a viable option to meet the standards of RLUIPA.

## **DEFINITIONS**

Other use definitions were also modified to update the terms. Those that were modified are consistent with the definitions found in the Prince William County or City of Manassas zoning ordinances, as recommended by Martin.

## **HEIGHT**

Building height was brought up as a concern and in reading through the zoning ordinance and updating, building height seems to be well described and consistent throughout the ordinance. If there is a way in which it is not currently functioning or has failed to achieve the desired height restriction, it is not evident.

Martin had suggested a chart for height and noted the City of Manassas. A specific chart for height requirements was not evident.

## **MISCELLANEOUS**

A use chart was another idea that was suggested, in lieu of specific uses being within the district sections. This would completely restructure the look of the ordinance because it would remove the uses from the specific districts and create a new article that specifically lists the uses and then references the district section for any additional requirements or design standards. Not all zoning ordinances are set up in this fashion and it is a preference issue and how the Town would like to present their ordinance and permitted/accessory/special exception uses.

Another discussion was about the set up and format of the ordinance and whether it would be considered "modern". At this time, the format is consistent with the Town Code. With the use of services, such as Municode, ordinances are all starting to look very similar in digital format. Consistency within the format and across other chapters of the Town Code is going to be important.

In addition to electronic submission, there was a discussion about whether or not Town Council wanted to delegate responsibility for review of site plans to the zoning official or town staff. There was not determination made on this topic by the Town Council. Site plan review is many times handled administratively, but does not have to be.

## **ARB COMMENTS**

The ARB had a few comments and concerns. First was holiday decorations, which at one point were located and addressed within the signs section prior to the update of that section. Decorations are proposed as temporary seasonal displays with a 30 day time limit, which are accessory to the principal use within each district.

Vending machines are also of concern to the ARB. As previously noted, this was at one time discussed as being outdoor display and sales, with the suggestion from Town Council to consider it automated display and sales. Martin Crim shared concerns that this would not be a defensible option for limiting the use of vending machines. He suggested including vending machines as a type of sign, which is the path that was taken.

Within the sign regulations, the ARB wanted flags to be considered as signage while maintaining a four sign limit (cumulative signs and flags). This note was included within the B-1 section of the sign section.

The ARB also noted that there is no follow up or enforcement for permits. The language for follow up by the ARB appears to be within the Old and Historic Occoquan District, so no modifications were made.