TOWN OF AMHERST PLANNING COMMISSION
7:30 p.m. Wednesday, December 6, 2017
AGENDA

1. **Call to Order** – *Mrs. Driskill, Chair*

2. **Determination of Quorum**

3. **Approval of November 1, 2017 meeting minutes –** *The minutes of the November 1, 2017 meeting are attached.*

4. **Public Hearing - Rezoning 258 S. Main Street from R-2 to R-3 -** *A rezoning application for property adjacent to Well Fargo Bank on South Main Street has been received and a public hearing was been scheduled, and advertised. Attached are the following items related to this application:*
    a. *Revised application for R-3 zoning from Mr. Hines – Attachment 4a*
    b. *Advertising notice – Attachment 4a1*
    c. *Notice of a community meeting scheduled for 6 p.m. on Monday, December 4 in order to encourage dialogue with the owners of adjacent parcels – Attachment 4a2*
    d. *A listing of property owners to whom a notice was mailed – Attachment 4a3; and*
    e. *The sign affidavit – Attachment 4a4*

    Mr. Hines concurred with a suggestion to hold a community meeting and the attached notice was mailed to adjacent property owners on Tuesday, November 28. In the past, I have found that holding a community meeting can be helpful to all parties in that it provides for a less formal setting in which development issues can be discussed. Attendance by members of the Planning Commission is completely optional. This meeting is set up to encourage dialogue between citizens and the developer and is not a substitute for either of the formal hearings in front of the Planning Commission and Town Council. Please give me a call at 540 440-0308 if you have suggestions, questions or concerns regarding this approach.

    Staff Report *- Because the proposed rezoning does not expand on an existing R3 district, there may be questions regarding this as a "spot zoning". In any smaller locality, there will be situations where a zoning designation is limited to only one lot. Attachment 4b – Town Zoning Map shows this to be the case in a number of different places in the Town of Amherst. Indeed the detail of the Town Zoning Map (attachment 4c) shows an R-3 district (Lot 23) is already located along Mount Olive Road on the north side of West Court Street. Attachment 4e is an article regarding spot zoning issues which concludes that the primary consideration regarding one-lot zones is the comprehensive plan. The remaining attachments include excerpts from the Town of Amherst Comp plan for consideration by the Planning Commission.*

    Staff recommends rezoning to R-3 based on citizen concerns regarding potential non-residential uses of this property, the need for non-traditional housing options for the elderly (see Attachment 4f – 3rd and 6th bullet points), and the inclusion of this lot in the Town Growth Area (Attachment 4j). Please give me a call at 540 440-0308 if you have questions, concerns or suggestions regarding this recommendation.

5. **Other Matters**
    a. *The Town Council will be hearing both the Waukeshaw and Blue Ridge Realty rezoning requests at their 7 p.m. Wednesday, December 13, 2017 meeting.*
    b. *I plan to update the Commission on the process for hiring the new Town Manager.*

6. **Concerns of Commissioners**

7. **Adjournment**

Town of Amherst
Planning Commission Minutes
November 1, 2017

A meeting of the Town of Amherst Planning Commission was called to order by Chairperson June Driskill in the Council Chambers of the Town Hall at 174 S. Main Street at 7:30 PM on November 1, 2017.

It was noted that a quorum was present as indicated below:

P	Kevin Belcher	P	William Jones
P	June Driskill	P	Kenneth Bunch
P	Ted Finney	P	Clifford Hart
		P	Michael Mozingo

Clerk of Council Vicki Hunt and Interim Town Manager Peter Huber were present.

Rezoning Request: 258 S. Main Street from R-2 to CBD
At 7:31 P.M. a duly advertised public hearing on a rezoning request was opened.

Chairperson June Driskill reported that the proposal by Matthew Hines, on behalf of Blue Ridge Realty Holdings, would, if approved, rezone 4.92 acres of land at 258 S. Main Street (TM#96A4-A-49&50 adjacent to Wells Fargo Bank), from General Residential District R-2 to Central Business District CBD. Although not present at this time, Matthew Hines, Owner, Blue Ridge Realty Holdings, was present to answer questions at the public hearing held during the October Planning Commission meeting during which the Commissioners could not take any official action due to lack of a quorum.

Darryl Spradley, Amherst, VA, came forward to voice his concern that there are no restrictions or control over the future use of the property if rezoned.

Andra Higginbotham, Amherst, VA, came forward indicating that although he is in favor of progress for the Town agrees there needs to be a stipulation in order to control the use of the property.

Rachel Thompson, Amherst, VA, came forward with traffic concerns, future use of property, and suggested that the Town could consider adjusting the conditions of zoning for patio homes.

There being no one else present who wished to speak on the matter the hearing was closed at 7:48 P.M.

After discussion, on a motion by Mr. Bunch which was seconded by Mr. Belcher the Commission accepted the verbal condition offered by Mr. Hines limiting uses allowed in the area to be rezoned from General Residential District R-2 to Conditional Business District CBD to the construction of patio homes and recommending Council approval of the rezoning request conditioned on this limitation. The motion carried 7-0 according to the following:

Aye – June Driskill	
Aye – Kevin Belcher	Aye – Clifford Hart
Aye – Ted Finney	Aye – Kenneth Bunch
Aye – William Jones	Aye – Mike Mozingo

Rezoning Request: 140 Union Hill Road, Old Mill Property (Waukeshaw Development, Inc)

At 7:50 P.M. a duly advertised public hearing on a rezoning request was opened.

FOR APPROVAL

Interim Town Manager Huber reported that the proposal by Waukeshaw Development, Inc., through its representative J. David McCormack, would, if approved, rezone 7.17 acres of land at 140 Union Hill Road (TM#s96A7 A 26-29) otherwise known as the Old Mill Property, from General Residential District R-2 to B-2.

David McCormick, Owner of Trapezium Brewing, and representative of Waukeshaw Development, Inc., was present to answer questions.

There being no one present who wished to speak on the matter the hearing was closed at 7:55 P.M.

After discussion, on a motion by Mr. Bunch which was seconded by Mr. Finney the Commission agreed to recommend that the Town Council approve the rezoning request from General Residential District R-2 to B-2. The motion carried 7-0 according to the following:

Aye – June Driskill	
Aye – Kevin Belcher	Aye – Clifford Hart
Aye – Ted Finney	Aye – Kenneth Bunch
Aye – William Jones	Aye – Mike Mozingo

The minutes from the September 6, 2017, Commission meeting were approved on a motion by Mr. Hart, seconded by Mr. Bunch, and carried 7-0 according to the following:

Aye – June Driskill	
Aye – Kevin Belcher	Aye – Clifford Hart
Aye – Ted Finney	Aye – Kenneth Bunch
Aye – William Jones	Aye – Mike Mozingo

The minutes from the October 4, 2017, Commission meeting were approved on a motion by Mr. Hart, seconded by Mr. Bunch, and carried 7-0 according to the following:

Aye – June Driskill	
Aye – Kevin Belcher	Aye – Clifford Hart
Aye – Ted Finney	Aye – Kenneth Bunch
Aye – William Jones	Aye – Mike Mozingo

There being no further business, the meeting adjourned at 8:00 PM on a motion by Mr. Finney seconded by Mr. Hart.

_____
June Driskill, Chairperson

Attest: _____

FOR APPROVAL

November 7, 2017

Town of Amherst
Attn: Mr. Peter Huber (Town Manager)
174 S. Main Street
Amherst, VA 24521

Re: Rezoning application for tax map parcels 96A4A49 & 96A4A50

Dear Mr. Huber:
Blue Ridge Realty Holdings, LLC is requesting the rezoning of tax map parcels **96A4A49 & 96A4A50** also known as 258 S Main Street**.** It has come to our attention that there is some concern about the intent to develop the aforementioned parcel. To be clear we have not waivered on our original plan to pursue a residential development. Therefore, we are willing to accept a conditional rezoning for CBD that only affords Blue Ride Realty Holdings, LLC the right to pursue the residential options allowed within the CBD zoning ordinances, and will forgo those that permit commercial business development. Hopefully, this will eliminate the concern about the parcel being used for nonresidential purposes. We look forward to working with the town this project. All correspondence can be sent to the below address. Also, all digital contact can be made at blueridgerealtyllc@gmail.com

PO Box 251
Earlysville, VA
22936

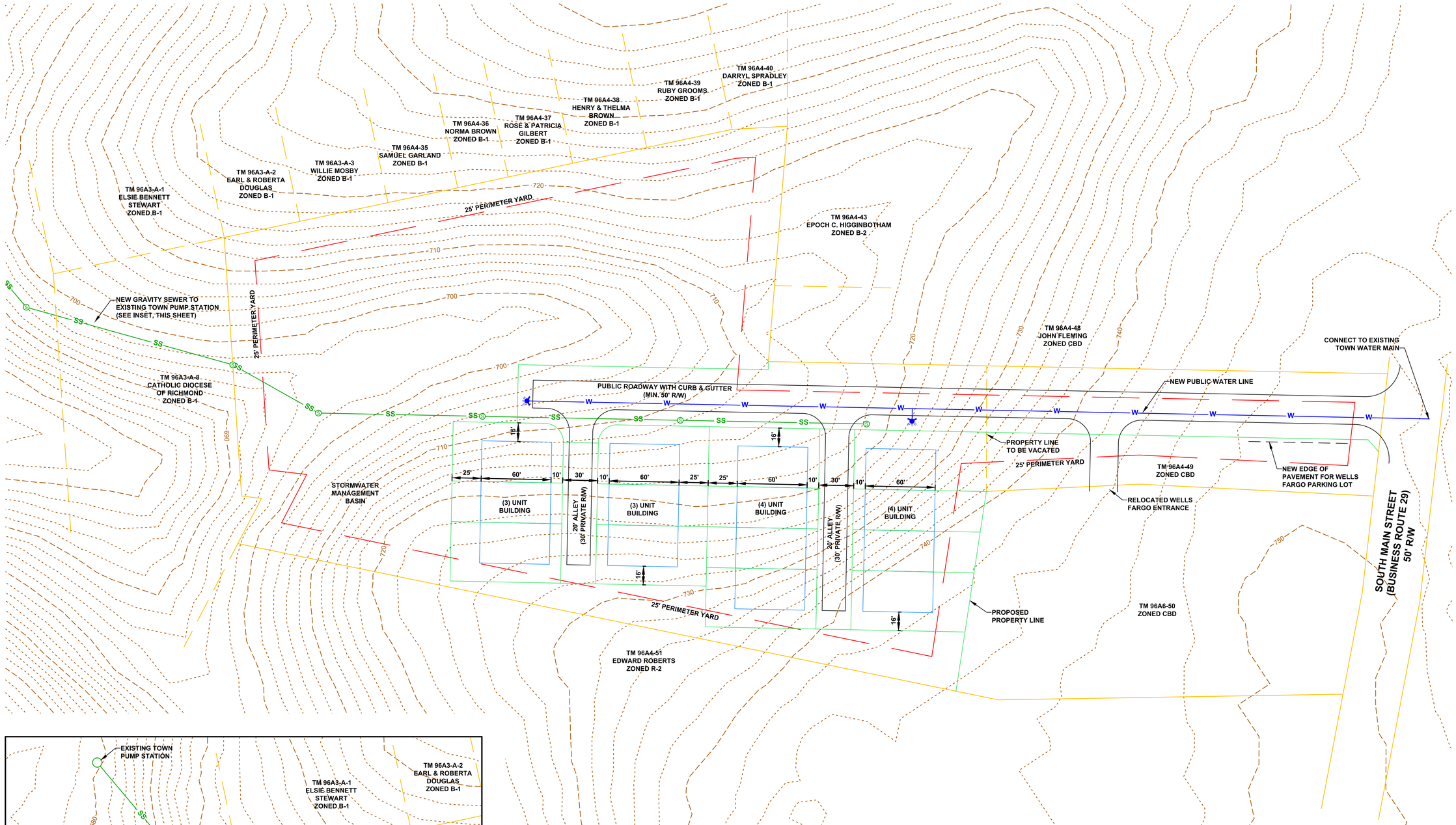
If you have any questions, please do not hesitate to contact the undersigned.

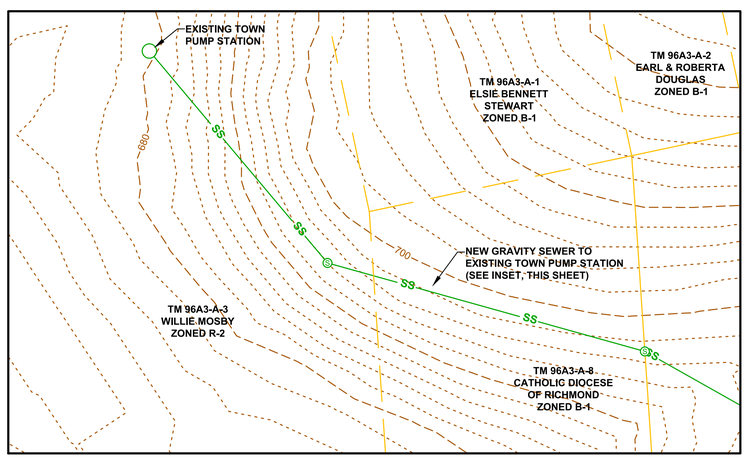
Regards,

Blue Ridge Realty Holdings, LLC

By: Matthew Hines, Managing Member

-





NOTES:

1. TOPOGRAPHIC INFORMATION OBTAINED FROM USGS DATA.
2. AERIAL IMAGERY OBTAINED FROM VGIN DATA.
3. BOUNDARY AND ADJACENT PROPERTY OWNERSHIP INFORMATION OBTAINED FROM DRAWING TITLED "ALTA/ACSM LAND TITLE SURVEY PREPARED FOR KBS TRANSACTION PROJECT" DATED NOVEMBER 20, 2012.
4. LOTS SHALL BE SERVED BY PUBLIC WATER AND SEWER.

40 20 0 40 80
GRAPHIC SCALE IN FEET
1" = 40'

NORTH

HURT & PROFFITT
INCORPORATED
2524 LANGHORNE ROAD
LYNCHBURG VA 24501
800.242.4906 TOLL FREE
434.847.7796 MAIN
434.847.0047 FAX
*ENGINEERING >> SURVEYING >> PLANNING

CONCEPTUAL SITE PLAN
FOR
PATIO HOME DEVELOPMENT
TOWN OF AMHERST, VIRGINIA

PROJECT NO.	20160989
LATITUDE:	37° 35'
LONGITUDE:	79° 03'
DATE:	4/20/2017
DRAWN BY:	ASK
CHECKED BY:	ASK

HURT & PROFFITT

SHEET NO.
1 OF 1

Apr 20, 2017 - 10:08am C:\Users\ask\appdata\local\temp\AcPublish_4837\2\SITE-Multi-family.dwg

DATE 6/11/17

APPLICATION FOR REZONING
TOWN OF AMHERST
POST OFFICE BOX 280
AMHERST, VIRGINIA 24521
(804) 946-7885

APPLICANT Blue Ridge Realty Holdings
ADDRESS P.O Box 251
Earlysville, VA
CITY 22936
TELEPHONE NO. 201-390-5686

OWNER Same as applicant
ADDRESS
CITY
TELEPHONE NO

REPRESENTATIVE Matthew Hines
ADDRESS Same as applicant
CITY
TELEPHONE NO.

LOCATION OF REQUEST 258 S. Main St
TAX MAP NO. 96A4A49, 96A4A50
LOT AREA 4.92
EXISTING ZONING R2
PROPOSED ZONING CBD

STATEMENT BY APPLICANT Request rezoning for parcels 96A4A49 + 96A4A50. See attached proposed site plan

Applicants are reminded that §18.1-1002 of the Town Code requires signs describing the action requested under this application to be posted on the property.

As (OWNER) (CONTRACT PURCHASER WITH OWNER'S WRITTEN CONSENT, ATTACHED) (OWNER'S AGENT) of the property listed above, I/we hereby petition the Amherst Town Council to rezone the above described property.

Signature of Applicant — Date 6/11/17

PLANNING COMMISSION PUBLIC HEARING — Time — Date

PLANNING COMMISSION ACTION

Zoning Administrator — Date

TOWN COUNCIL PUBLIC HEARING — Time — Date

TOWN COUNCIL ACTION

Clerk of Council — Date

Jack Hobbs

From: Kessler, Jeffery B., P.E. (VDOT) <JefferyB.Kessler@VDOT.Virginia.gov>
Sent: Friday, June 16, 2017 4:13 PM
To: Jack Hobbs
Cc: Brown, Sara S. (VDOT); Austin Sr., Donald L. (VDOT); Youngblood, Rick D. (VDOT)
Subject: Proposed Hines townhouse project (behind Wells Fargo Bank) Town of Amherst
Attachments: VDOT_Lynchburg_Site_Plan_Checklist _2016.pdf; VDOT_Lynchburg_Subdivision_Plan_Checklist _2016.pdf; Hines Townhouse Project_S.Main_Town of Amherst_Conceptual Plan.pdf

Thank you Jack;

This is the first I have heard of this development. Based solely on what is being presented on the conceptual plan, the use of a shared commercial entrance serving both the town home development and bank is supported. I question the eligibility of state maintenance of the access road serving the town homes and will require more information justifying this. Also, it appears that rezoning is involved, which allows VDOT the opportunity to play a role in the review process.

If eligible for state maintenance, "connectivity" as defined by VDOT's Secondary Street Acceptance Requirements will need to addressed. Also, the waterline will need to be relocated from beneath the roadway pavement. The conceptual drawing shows more than adequate space behind the curb and gutter to accommodate utilities.

Traffic generation, the connection with South Main Street (Route 29 Business), roadway geometrics, driveway access locations, etc. will all need to be addressed. I have attached a copy of the VDOT Lynchburg District Subdivision Plan Check List and VDOT Lynchburg District Site Plan Check List are to be completed (as applicable) by the engineer, and submitted with construction plans and support documentation.

I will be happy to meet together with you and the developer to discuss this project. I appreciate this opportunity to offer preliminary comments on the conceptual site plan.

Sincerely,
Jeff

Jeffery B. Kessler, P.E.
Area Land Use Engineer
VDOT - Lynchburg
434.856.8293
JefferyB.Kessler@VDOT.Virginia.gov

From: Jack Hobbs [mailto:jack.hobbs@amherstva.gov]
Sent: Friday, June 16, 2017 8:41 AM
To: Kessler, Jeffery B., P.E. (VDOT)
Subject: Hines townhouse project (behind Wells Fargo Bank)

Jeff,

This is a preliminary site plan. The developer and designer have been asked to check in with your shop but I'm not sure whether that has been done.

Do you see any major items that ought to be brought up during the rezoning process?

TOWN OF AMHERST

P.O. Box 280 174 S. Main Street Amherst, VA 24521
Phone (434)946-7885 Fax (434)946-2087

November 22, 2017

Dear Property Owner:

As suggested at the November Town Council meeting, Matthew Hines, Blue Ridge Realty Holdings is requesting consideration from R-2 to R-3 zoning of the property located adjacent to Wells Fargo Bank in order to allow for the construction of 14 patio homes to be located in 4 buildings as described in the revised conceptual plan, a copy of which is attached.

PUBLIC HEARING NOTICES:

Planning Commission
The Town of Amherst Planning Commission will hold a public hearing at 7:30 PM on Wednesday, December 6, 2017 in the Council Chambers of the Town Hall at 174 South Main Street. The subject of the hearing is a proposal by Matthew Hines, on behalf of Blue Ridge Realty Holdings, to rezone 4.92 acres of land at 258 S. Main Street (TM#96A4-A- 49&50 adjacent to Wells Fargo Bank), from General Residential District R-2 to R-3 High Density Residential.

Town Council
On the following Wednesday, December 13, 2017 the Town Council will hold a public hearing at 7:00 p.m. also in the Council Chambers Council Chambers of the Town Hall at 174 South Main Street. The subject of the hearing is a proposal by Matthew Hines, on behalf of Blue Ridge Realty Holdings, to rezone 4.92 acres of land at 258 S. Main Street (TM#96A4-A- 49&50 adjacent to Wells Fargo Bank), from General Residential District R-2 to R-3 High Density Residential.

Documents relating to the request are available for public inspection at www.amherstva.gov and in the Town Hall during normal working hours.

Please give me a call at 434 946-7885 if I can be of any assistance in providing information to you regarding this matter.

TOWN OF AMHERST

P.O. Box 280 174 S. Main Street Amherst, VA 24521
Phone (434)946-7885 Fax (434)946-2087

November 29, 2017

Dear Property Owner:

In addition to the public hearings described in the notice sent to you on November 22, 2017, Mr. Matt Hines is inviting the owners of adjacent properties to a community meeting to be held from **6 p.m. to 7 p.m. on Monday, December 4, 2017 at the Amherst Town Hall.**

As noted in the attached plan, Matthew Hines, Blue Ridge Realty Holdings is requesting consideration to the rezoning of this property (TM#96A4-A- 49& 50 adjacent to Wells Fargo Bank) from R-2 to R-3 in order to allow the construction of 14 patio homes to be located in four buildings as described in the revised conceptual plan, a copy of which is attached.

The Town of Amherst Planning Commission will still be holding a public hearing regarding this matter at 7:30 PM on Wednesday, December 6, 2017 and the Town Council will still hold a public hearing at 7:00 p.m. on Wednesday, December 13 regarding this request.

The purpose of the additional community meeting is to provide an opportunity for open conversation between adjacent property owners and Mr. Hines regarding the rezoning request.

The community meeting and two public hearings will all be held in the Council Chambers of the Town Hall at 174 South Main Street.

Documents relating to the request are available for public inspection at www.amherstva.gov and in the Town Hall during normal working hours.

Please give me a call at 434 946-7885 if you have any questions, concerns or suggestions regarding any of these meetings.

Sincerely,

Peter M. Huber,
Interim Town Manager

Cc: Amherst Town Planning Commission
Amherst Town Council

Parcel Address	Owner	Owner Address	Owner City/State/Zip	Parcel ID		
197 GREGORY LN	LANE CHARLES J & STEPHANIE B	1668 FARMNGTON DR	FOREST, VA 24551	96A3 2 1,2	1	16
268 S MAIN ST	THOMPSON DOUGLAS L & RACHEL E	P O BOX 726	AMHERST, VA 24521	96A4 A 51	2	15
N/A	DILORENZO FRANCIS X REV BISHOP	C/O ST FRANCIS P O BOX 663	AMHERST, VA 24521	96A3 A 6	3	14
191 W COURT ST	STEWART ELSIE BENNETT	P O BOX 55	AMHERST, VA 24521	96A3 A 1 96A3 2 6	4.1	2
199 W COURT ST	STEWART ELSIE BENNETT	P O BOX 55	AMHERST, VA 24521	96A3 A 1 96A3 2 6	4.2	3
N/A	DOUGLAS EARL & ROBERTA T	727 KENMORE RD	AMHERST, VA 24521	96A3 A 2	5	1
187 W COURT ST	MOSBY WILLIE	139 RIVIERA DR	MADISON HEIGHTS, VA 24572	96A3 A 3	6	13
N/A	GARLAND ADD	1933 S ST SE	WASHINGTON, DC 20020	96A4 A 35	7	4
175 W COURT ST	BROWN MARY ESTATE	4419 UBER ST	PHILADELPHIA, PA 19140	96A4 A 36	8	5
173 W COURT ST	ROSE GILBERT M & PATRICIA	P O BOX 328	AMHERST, VA 24521	96A4 A 37	9	6
167 W COURT ST	BROWN HENRY L & THELMA J	P O BOX 1105	AMHERST, VA 24521	96A4 A 38	10	7
163 W COURT ST	GROOMS RUBY A	694 POOR HOUSE FARM RD	AMHERST, VA 24521	96A4 A 39	11	8
153 W COURT ST	SPRADLEY WANDA T & DARRYL W	P O BOX 1562	AMHERST, VA 24521	96A4 A 40	12	9
240 S MAIN ST	FLEMING JOHN R JR & ARNITA F	1309 SOMERHILL PL	ANCHORAGE, KY 40223	96A4 A 48	13	11
229 S MAIN ST	BROWN CHARLES R & PHYLLIS B	P O Box 1199	AMHERST, VA 24521	96A4 A 75,76,79	14	21
237 S MAIN ST	MORANDY DAVID H & KRYSTAL A &	237 S MAIN ST	AMHERST, VA 24521	96A4 A 74	15	22
169 MOUNT OLIVE ROAD	PENN WILLIAM & HELEN	P O BOX 327	AMHERST, VA 24521	96A4 A 29	16	23
253 S MAIN ST	ASCENSION EPISCOPAL CHURCH	P O BOX 810	AMHERST, VA 24521	96A4 A 71	17	24
141 W COURT ST	HIGGINBOTHAM EPOCH C & KATHLEEN B	P O BOX 231	AMHERST, VA 24521	96A4 A 43		10
N/A	BLUE RIDGE REALTY HOLDINGS LLC	P O BOX 251	EARLYSVILLE, VA 22936	96A4 A 49		12
240 S MAIN ST	FLEMING JOHN R JR & ARNITA F	1309 SOMERHILL PL	ANCHORAGE, KY 40223	96A4 A 48		17
						18
258 S MAIN ST	BLUE RIDGE REALTY HOLDINGS LLC	P O BOX 251	EARLYSVILLE, VA 22936	96A4 A 50		19
						20

TOWN OF AMHERST

P.O. Box 280 174 S. Main Street Amherst, VA 24521
Phone (434)946-7885 Fax (434)946-2087

AFFIDAVIT

I hereby certify that, on November 22, 2017, this notice of public hearing was sent by first class mail to the last known address of the owners of neighboring property shown on the current real estate tax assessment books and as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended. The list of owners is below.

The required sign was erected on the site on November 9, 2017.

Peter M Shultes 11/29/2017

Date

November 22, 2017

Dear Property Owner:

As suggested at the November Town Council meeting, Matthew Hines, Blue Ridge Realty Holdings is requesting consideration from R-2 to R-3 zoning of the property located adjacent to Wells Fargo Bank in order to allow for the construction of 14 patio homes to be located in 4 buildings as described in the revised conceptual plan, a copy of which is attached.

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199 W COURT ST	STEWART ELSIE BENNETT	P O BOX 55	AMHERST, VA 24521	96A3 A 1 96A3 2 6	4.2	3
N/A	DOUGLAS EARL & ROBERTA T	727 KENMORE RD	AMHERST, VA 24521	96A3 A 2	5	1
187 W COURT ST	MOSBY WILLIE	139 RIVIERA DR	MADISON HEIGHTS, VA 24572	96A3 A 3	6	13
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N/A	BLUE RIDGE REALTY HOLDINGS LLC	P O BOX 251	EARLYSVILLE, VA 22936	96A4 A 49		12
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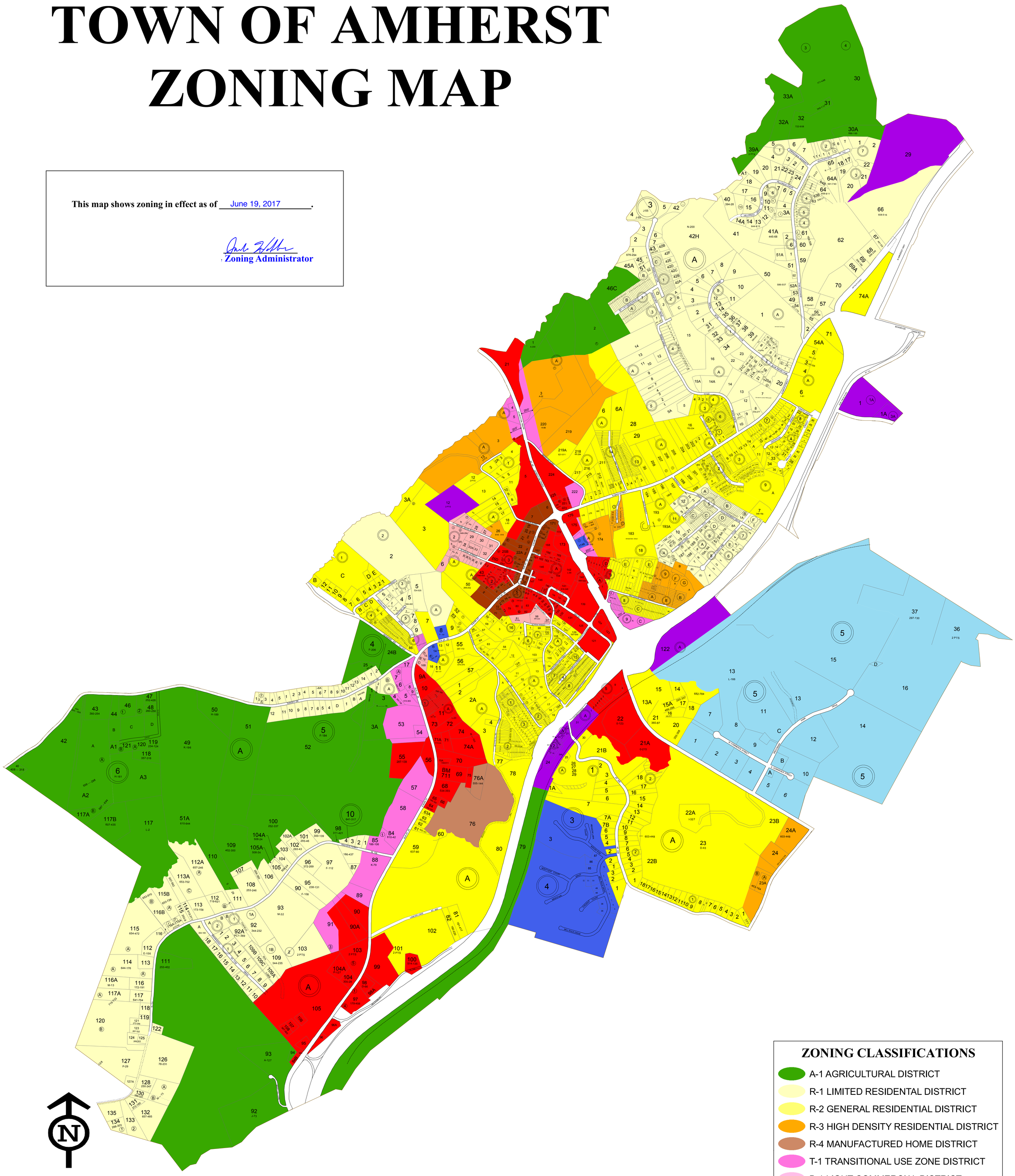
						18
258 S MAIN ST	BLUE RIDGE REALTY HOLDINGS LLC	P O BOX 251	EARLYSVILLE, VA 22936	96A4 A 50		19
						20

TOWN OF AMHERST
ZONING MAP

This map shows zoning in effect as of June 19, 2017.

Zoning Administrator



ZONING CLASSIFICATIONS

- A-1 AGRICULTURAL DISTRICT
- R-1 LIMITED RESIDENTAL DISTRICT
- R-2 GENERAL RESIDENTIAL DISTRICT
- R-3 HIGH DENSITY RESIDENTIAL DISTRICT
- R-4 MANUFACTURED HOME DISTRICT
- T-1 TRANSITIONAL USE ZONE DISTRICT
- B-1 LIGHT COMMERCIAL DISTRICT
- CBD CENTRIAL BUSINESS DISTRICT
- B-2 GENERAL COMMERCIAL DISTRICT
- E-1 BUSINESS PARK DISTRICT
- M-1 INDUSTRIAL DISTRICT

CONDITIONAL ZONING INDEX

- CZ-1 B-2 (McDONALD'S) 6/14/17 - TAX MAP# 96A4-A-174B
- CZ-2 B-1 (WILKINS) 4/12/95 - TAX MAP# 96A3-A-14
- CZ-3 B-1 (SHRADER) 7/12/95 - TAX MAP# 96A3-A-8
- CZ-4 R-3 (MILL RACE) 4/9/97 - TAX MAP# 96-4-A

600 0 600 1,200 1,800 Feet

REGION 2000
LOCAL GOVERNMENT COUNCIL
828 MAIN STREET 12TH FLOOR
LYNCHBURG, VA 24505
(434) 845-3491
FAX (434) 845-3493

April 8, 2009
Amended June 19, 2017

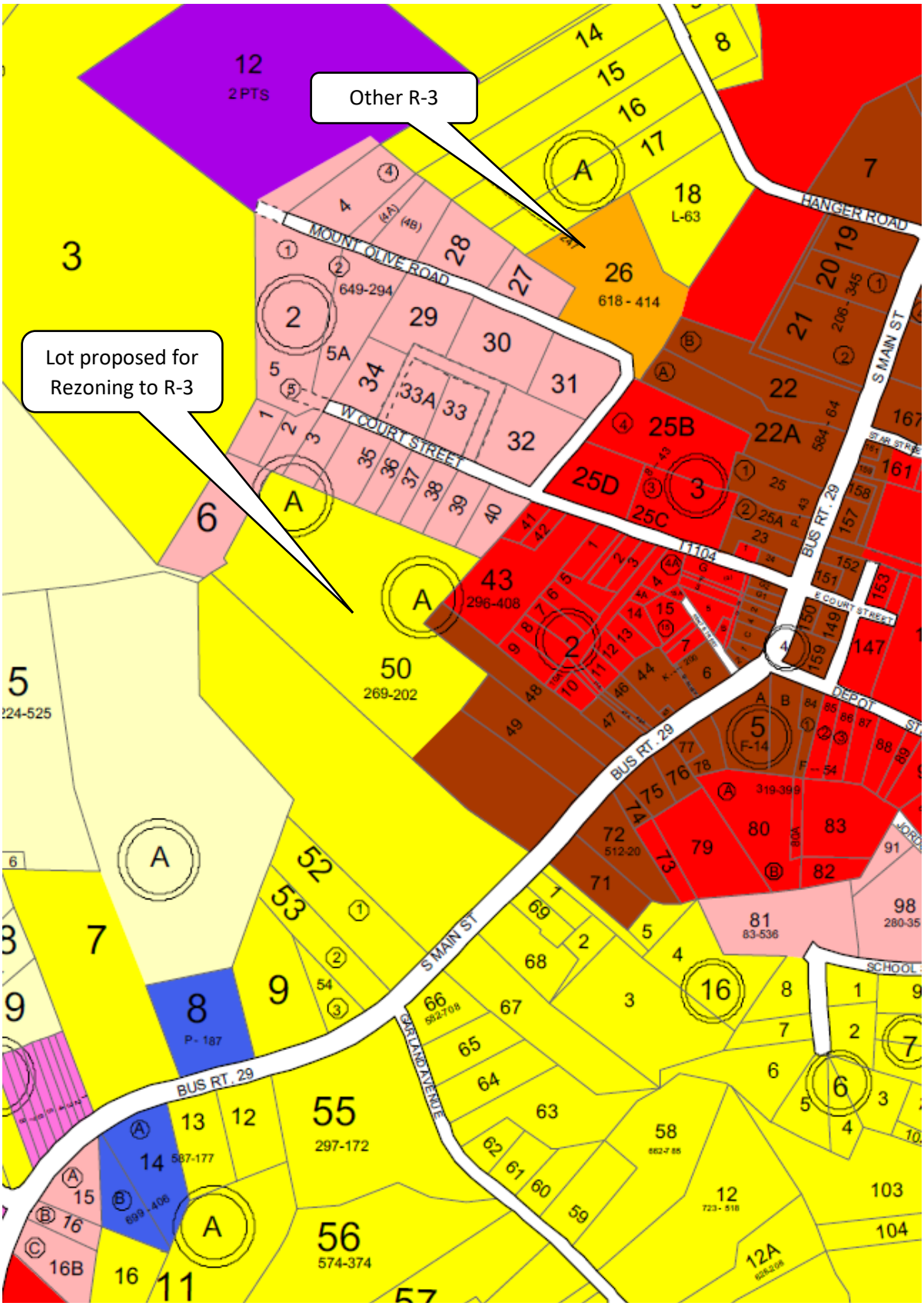

Other R-3
Lot proposed for Rezoning to R-3
MOUNT OLIVE ROAD
W COURT STREET
E COURT STREET
HANGER ROAD
S MAIN ST
BUS RT. 29
DEPOT ST
SCHOOL
GARLAND AVENUE
12
2 PTS
3
649-294
26
618 - 414
18
L-63
25B
25D
25C
22
22A
43
296-408
50
269-202
55
297-172
56
574-374
8
P - 187
81
83-536
72
512-20
58
12
723 - 518
12A

TABLE 7.1

A-1	R-1	R-2	T-1	R-3	R-4	B-1	CBD	B-2	E-1	M-1	Description of Use
ACCESSORY AND AGRICULTURAL USES											
P	P	P	P	P	P	P	P	P	P	P	Accessory buildings and uses as provided in Section 901 herein.
P	P	P	P	P	P	P	P	P	P	P	Agricultural activities, including the raising of crops and animals, provided that agricultural use shall not be objectionable by reason of odor, dust, noise, pollution, erosion or drainage.
							P	P	P	P	Antenna and equipment buildings associated with existing wireless telecommunication facilities as provided in Section 914 herein.
									P	S	Cemeteries.
S	S	S	P	S	S	P	P	P			Church accessory uses involving 2,000 SF or more of building area, including day care centers, indoor recreation or fellowship halls, and schools.
P	P	P	P	P	P	P	P	P	P	P	Confined livestock facilities as provided in Section 916 herein.
P	S	S	S	S	S	P	P	P			Home occupation in an accessory building to the main dwelling unit as provided in Section 905 herein.
P	P	P	P	P	P	P	P	P			Home occupations within a dwelling unit as provided in Section 905 herein.
P	P	P	P	P	P	P	P	P	P	P	Public utilities: poles, lines, transformers, pipes, meters, and/or other facilities necessary for the provision and maintenance of public utilities; provided that electric service lines from the street property line to any residence or other permitted use shall be underground. Provided that only one line of poles will be allowed on any street.
P	P	P	P	P	P	P	P	P	P	P	Signs as provided in Section 908 herein.
S	S	S	S	S	S	P	P	P	P	P	Temporary uses including, but not limited to, sale of Christmas trees, tents for revivals, carnivals, but such use not permitted for a period to exceed four (4) months in any calendar year.
RESIDENTIAL USES											
S	S	P	P	P	P						Apartments in an existing single family dwelling.
P	S	S	P	S	S	P	P	P			Bed and Breakfast lodging, provided that the owner and family must occupy the residence and own the business, the single-family dwelling appearance be maintained, and adequate off-street parking is provided to the rear of the front setback of the dwelling.
P	P	P	P	P	P	P	P	P			Churches, manses, parish houses and adjacent cemeteries.
P	P	P	P	P	P	P	P	P			Garages, private.
P					S						Individual manufactured or modular homes nineteen (19) feet or greater in width placed on continuous masonry foundations.
					S						Manufactured home parks, as provided in Section 913 herein.
				P		P	P	P			Multi-family dwellings with an aggregate of three (3) or more units as specified in Section 906 herein.
S	S	S	S	S	S	S	S	S			Planned unit developments, as provided in Section 917 herein.
P	P	P	P	P	P	P	P	P			Single-family dwellings, except for mobile homes and manufactured homes.
							P				Single family, two family and multifamily dwellings within a building that contains a business, provided that no dwelling shall be on the sidewalk-level floor of the front of the building.
			P	P		P	P	P			Townhouses, as provided in Section 912 herein, and condominiums.
		P									Townhouses, as provided in Section 912 herein, with no more than four townhouses within any one development.
P		P	P	P	P	P	P	P			Two-family dwelling units and semi-detached dwellings.

(Amended June 10, 2013)

You Can't Do That - It's Spot Zoning!

YOU CAN’T DO THAT - IT’S SPOT ZONING!

By Craig Hullinger, AICP and Chuck Eckenstahler, AICP

INTRODUCTION

Almost every Plan Commission at one time or another, has been chided with the statement that the Commission cannot approved a rezoning request because it will create a spot zone. Most often this statement is made by a disgruntled adjoining property owner who objects to the neighboring property being occupied and used in a certain way. The accusation implies the Plan Commission is doing something wrong and possibly illegal by creating a spot zone.

This article is intended to demystify spot zoning. Spot zoning in actuality, is a misnomer. A spot zone cannot be created if the Plan Commission carefully considers the facts of the property, the proposed land use and relies on an up-to-date adopted Comprehensive Plan as the guide for the application of zoning regulations for the specific property.

SPOT - A DEFINITION

Nowhere in planning and zoning legislation is the term spot zone defined or used. Spot zoning is colloquial term developed to describe the application of a specific zoning district classification to a small area which is surrounded by a larger different (usually less intense) zoning district.

Webster defines spot as 1) a particular place of relatively small a definite limits, 2) a mark on a surface differing sharply in color from the surroundings, 3) a position; location and 4) a set of circumstances; a situation, especially a troublesome one.

In fact, the courts concur with this definition. In the case of Landcaster development Ltd. V. Village of River Forest (1st Dist.1967) the court stated for a decision “to constitute spot zoning, two requisites must coexist: First, a change of the zone applicable to a small area and second, a change which is out of harmony with comprehensive planning for the good of the community.”

It is easy to see why the term spot zoning is often used. It is most often used to describe action where a relatively small parcel of land is rezoned and granted some special benefit. The parcel of land is then shown on the community zoning map as one color within a larger zoning district of a different color. But, the accusation could be made in a number of other rezoning situations.

REZONING ISSUES TO CONSIDER

In Illinois, there is a specific set of requirements which a Plan Commission must consider when evaluating a request for the rezoning of a parcel of land. These standards were established by the Illinois Supreme Court in two cases; LaSalle and Richton Park. Generally, for a rezoning matter upheld in the Supreme Court the Plan Commission must consider:

PREVENTING SPOT ZONING

Good planning practices will prevent appearances of spot zoning. In fact, adherence to the standards and an up-to-date comprehensive plan describing the intended use of the land which is in the best interest of the community virtually eliminates the problem.

Zoning decision making which relies on the eight rezoning standards, clearly establish a rationale why a requested rezoning should be granted, even if provided the opportunity for the land to be used more profitably. Secondly, the use of the Comprehensive Plan for justification of the decision documents that the decision was made “for the good of the community.”

SPOT ZONING — DO’S AND DON’TS

DO - evaluate each rezoning on its individual merits using the eight standards. A written record of the rationale be prepared.

DO - reference the Comprehensive Plan as documentation for why a decision has been made.
DO - amend the Comprehensive Plan (preferably before granting the rezoning) if made which is inconsistent with the current plan.

DON'T - succumb to public pressure. Recognize spot zoning is oftentimes used as a threat by those who may object to the rezoning.

DON'T - worry about the size of the parcel(s) of land under consideration. Rather, consider the importance of the proposed land use and its interrelationship with surrounding properties (which may only one abutting property or many properties located in the much larger area).

CONCLUSIONS

A spot zoning action cannot occur if good planning practices are followed. Careful adherence to the suggested standards and procedures will prevent appearances of preferential benefits being granted by a rezoning action. The best defense, when being chided, is reference to the action being in the best interest of the community documented in the Comprehensive Plan and shown on its Future Land use Plan.

About the Authors

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Craig Harlan Hullinger, AICP, is a governmental planning consultant and President of Planning Development Services. He recently reentered private practice after serving as the Assistant Village Manager for Tinley Park. He also has served as Will County Director of Land Use on two occasions. In both positions he supervised planning, zoning, engineering, and building functions. He has served as a planning consultant to the Villages of Tinley Park, Frankfort, Munster, IN, and several other communities. He serves as an expert witness for numerous attorneys with most of his current activity centering on the I-355 Corridor. Craig has a BA Degree in Public Administration and a Master's Degree in Environmental Planning. Craig can be contacted at 708/ 532-8991 or E-mail Craig@Hullinger.com Web www.Craig.Hullinger.com

21. HOUSING PLAN

The Town of Amherst appears to have an adequate stock of housing. It seems that the Town's housing stock has kept pace with population growth through the years, as well as with the increased need for additional housing due to the ever-growing number of non-married couple families, the latter resulting from such situations as divorce, death and the desire to reside alone.

The quality of housing in the Town is generally good. However, a few areas are in need of rehabilitation.

Insofar as local tradition dictates that housing, and housing improvement, is provided by private or non-profit groups, the Town does not play a direct role in this area. However, the Town has designated several areas for higher density development and has worked to make water and sewer services - which are greatly needed for higher density and lower cost housing developments – available to the vast majority of the lands within the Town of Amherst corporate limits. The Town does not play a direct role in providing housing for its citizens but through the Comprehensive Plan, Zoning Ordinance, other regulations and capital investments is able to guide the type, location, and density of housing.

A site-built, single-family, detached dwelling, used as a primary family residence describes and constitutes the majority of housing units within the Town. Single-family housing is expected to be the predominant form of housing within the Town for the foreseeable future. However, multi-family housing – including townhouses, condominiums and "rental" apartments in mixed use situations - is becoming an increasingly viable housing option. Mobile homes often represent the most viable affordable housing for some families. As such they are allowed in approved existing mobile home parks.

The Town will endeavor to create the best residential environment for every resident of the Town. The location of residential development will be coordinated with the development of community facilities essential to a good residential environment. Public facilities will be planned so as to serve those areas that are deemed to be best suited for residential development.

Areas designated for construction, rehabilitation and maintenance of affordable housing sufficient to meet the current and future needs of residents of all levels of income in the Town while considering the current and future needs of greater Amherst area are shown as residential on the future land use and zoning maps.

Following are specific strategies that the Town will employ to encourage the maximum availability of safe, clean, and affordable housing to meet community needs:

- Encourage a coordinated, rather than lot-by-lot, approach to development and redevelopment;
- Ensure adequate coordination between the planning for housing and transportation facilities;
- Encourage the development of facilities that are suitable for residential occupancy by the elderly;
- Encourage a range of housing types to support varied population segments and income levels;
- Encourage development which will contribute to the improvement of property values;
- Review and orient zoning regulations to provide a range of housing densities that will complement the provision of community facilities and that will encourage varied, interesting and safe residential and mixed-use neighborhoods;
- Encourage the production of single-family, two-family, and multifamily dwelling units of the types and proportions that will satisfy the varying needs and desires of consumers;
- Encourage the maximum utilization of the master-planned residential and mixed-use concept in the Town;
- Improve water, sewer, road, stormwater drainage, and other infrastructure to support housing, possibly through the use of Community Development Block Grant funds;
- Continue to support voluntary efforts toward the fair allocation of housing to all Amherst residents; and
- Create ease of access for pedestrians and bicyclists to service and retail establishments.

26. FUTURE LAND USE PLAN

The Town of Amherst expects to grow at an increased rate now that new Route 29 Bypass around Madison Heights and Lynchburg has been completed. The Town of Amherst firmly believes that the Town will become a focal point of developers due to the potential offered by the new highway. Much of this growth will be in the form of increased housing stock. Most of the new residential development in this area is expected to be single family housing, but townhouse and two-family dwellings are also possible. Potential for growth also exists outside the Town limits off U.S. Route 60 west of the corporate limits at the Lloyd property and at Poplar Grove east of the Town. These heretofore undeveloped lands could potentially be served by the Town water and sewer utilities, provided such is installed in the future.

Various factors, including recent rezoning requests and statements by real estate agents and business operators, have indicated an apparent lack of business-zoned property in the Town. New commercial development will be driven by the construction of the Madison Heights bypass and residential development in the greater Amherst area. Discussions have been held about the future land use in the area along South Main Street between Garland Avenue and Ambriar Shopping Center. Recent commercial development in the Garland Avenue/Kenmore Road area have focused attention on this part of Town as a transition between the commercial/heavy commercial "Main Street" to the quiet, pleasant residential neighborhoods of Garland Avenue and Sunset Drive. It is felt that a buffering strategy to protect residential neighborhoods from heavy commercial areas along South Main Street is necessary. For these reasons a "Transitional Use" mixed use zone was developed for this area and certain other parts of the Town. A shift from "transitional use" zoning to commercial zoning is expected to occur in the coming years as infrastructure is installed and properties are developed consistent with the Town Development Area concept.

Industrial development inside the Town is limited by the amount of industrially zoned property. Excepting Brockman Park, the Town realizes that industrial development inside the corporate limits will be minimal until lands for such development are identified and rezoned and supporting infrastructure is developed.

Significant additional public and semi-public development is unlikely due to recent significant improvements of major installations inside the Town. Courthouse/jail, high school, fire station and water plant, and post office relocation/expansion/upgrade projects have all occurred during this decade.

LAND USE
GOALS, OBJECTIVES AND STRATEGIES

GOAL

TO ACHIEVE, THROUGHOUT THE TOWN AND SURROUNDING AREA, A BALANCED PATTERN OF LAND USES THAT MEETS THE NEEDS OF THE POPULATION, SITMULATES PHYSICAL, SOCIAL AND ECONOMIC DEVELOPMENT AND PROTECTS THE ECOLOGICAL BALANCE OF THE AREA.

Objective

1. To provide adequate land areas for the safe, orderly and efficient economic and demographic growth of the area.

LAND USE STRATEGIES

1. To outline land areas best suited to fit estimated needs for residential, institutional, commercial and industrial activities, respectively.

2. To continuously study and improve subdivision and zoning regulations designed to prevent fragmented, inharmonious and disorderly development.

3. To provide public utilities and facilities, to areas designated for intensive growth or to areas where this growth has already taken place.

4. To encourage development in areas where it is economically feasible to provide public utilities, or in areas where these public utilities are already located or plans have been made for the installation of public utilities.

5. To encourage a coordinated approach to development so as to balance the functional areas such as industrial parks, commercial centers, institutional areas and neighborhoods.

6. To encourage development on land that is suitable for the particular type of development.

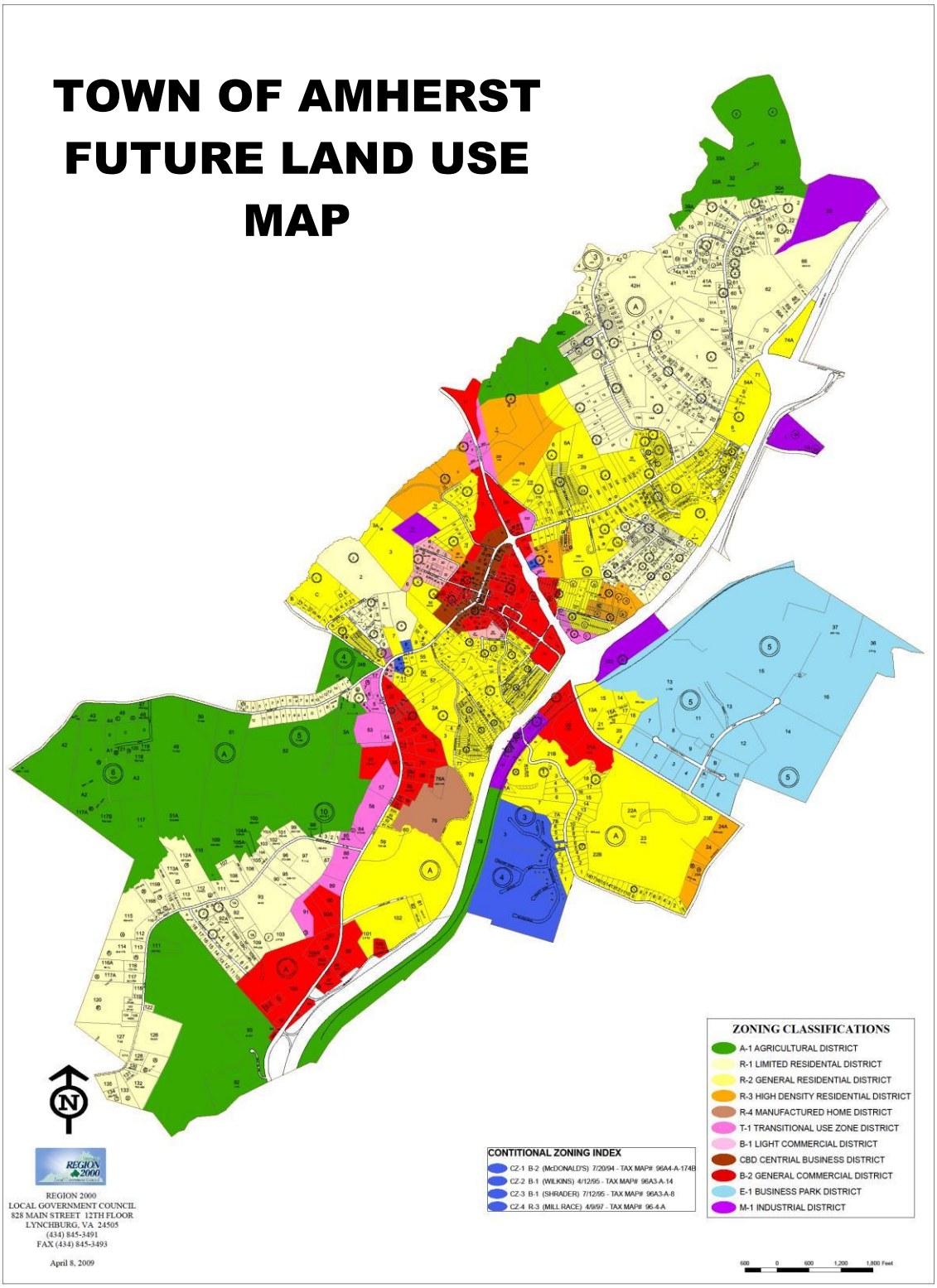
FUTURE LAND USE PLAN

It is essential for the land in Amherst to be developed wisely if the Town is to remain a viable and attractive community. Conflicts among various land uses must be prevented, and new development must be conceived to enhance the Town as a desirable place to live and work. This enhancement process should include planning and constructing new developments to blend with the architecture and atmosphere of the existing historic town. New developments should also include provisions for open space with existing open space being preserved where possible and made accessible to existing residential neighborhoods. Attractive, efficient commercial and commercial/industrial areas also need to be developed. To accomplish these ends, public policies must be developed and implemented to guide and control both public and private development in the public interest. It is recognized that as actual land use continues to evolve, land use plans and attendant regulations also need to evolve.

As such, the Town of Amherst's future land use plan begins with the current zoning map (Map 25) as adjusted by the "special focus" discussion in Chapter 25.

Figure 23: Future Land Use Map

(Reference Special Focus Areas discussed in previous chapter)



Town Development Areas

In response to emerging regional, state, and national demographic and real estate trends, the Town has designated Town Development Areas (TDAs) as the focus of compact development with a mix of uses that is consistent with traditional town design principles. The Town's aging population and declining average household size is expected to increase demand for different types of housing than the traditional single-family detached house, which accounted for more than two-thirds of the Town's housing stock in 2015. In many towns across Virginia, these trends are leading to the development of walkable neighborhoods with a variety of housing types that have easy access to shops, jobs, and entertainment. Enabling this type of development in Amherst supports economic development.

The purpose of the TDAs is to encourage compact, mixed use development in those areas of the Town where it is most appropriate. The Town of Amherst has determined that portions of the South Main Street and Route 60 corridors are most appropriate for the TDA designation (see Figure 24). The Town's TDA designation is consistent with Section 15.2 – 2223.1 of the Virginia State Code for urban development areas. This designation does not restrict development outside of the TDA. The Town encourages infill development in all areas of the Town, consistent with current zoning requirements.

In addition to the economic development benefits, designating TDAs also helps the Town be a good steward of public resources. Encouraging higher density development in the TDAs is fiscally prudent because it makes optimal use of existing infrastructure capacity while potentially reducing pressure to extend or expand infrastructure to serve growth on the Town's periphery. The TDA designation, which qualifies as an Urban Development Area under State code, also helps make future proposed transportation projects more competitive for state transportation funding.

Town Development Areas Geography

The Town Development Areas cover most of South Main Street and the Route 60 corridor. They encompass all land within the town zoned B-2 (General Commercial District), T-1 (Transitional Use District), or CBD (Central Business District) in 2016. The TDAs also include the Dulwich property, which is a large and mostly undeveloped parcel on Route 60 east of the Route 29 Bypass, which is zoned R-2 (General Residential District) in 2016. The TDAs cover portions of three special focus areas described in the preceding chapter– Central Business District, Ambriar Development Area, and Route 60/Bypass Interchange. The Town identified the TDAs through a study in 2016 funded by the Office of Intermodal Planning and Investment's Urban Development Area Technical Assistance Grant Program.

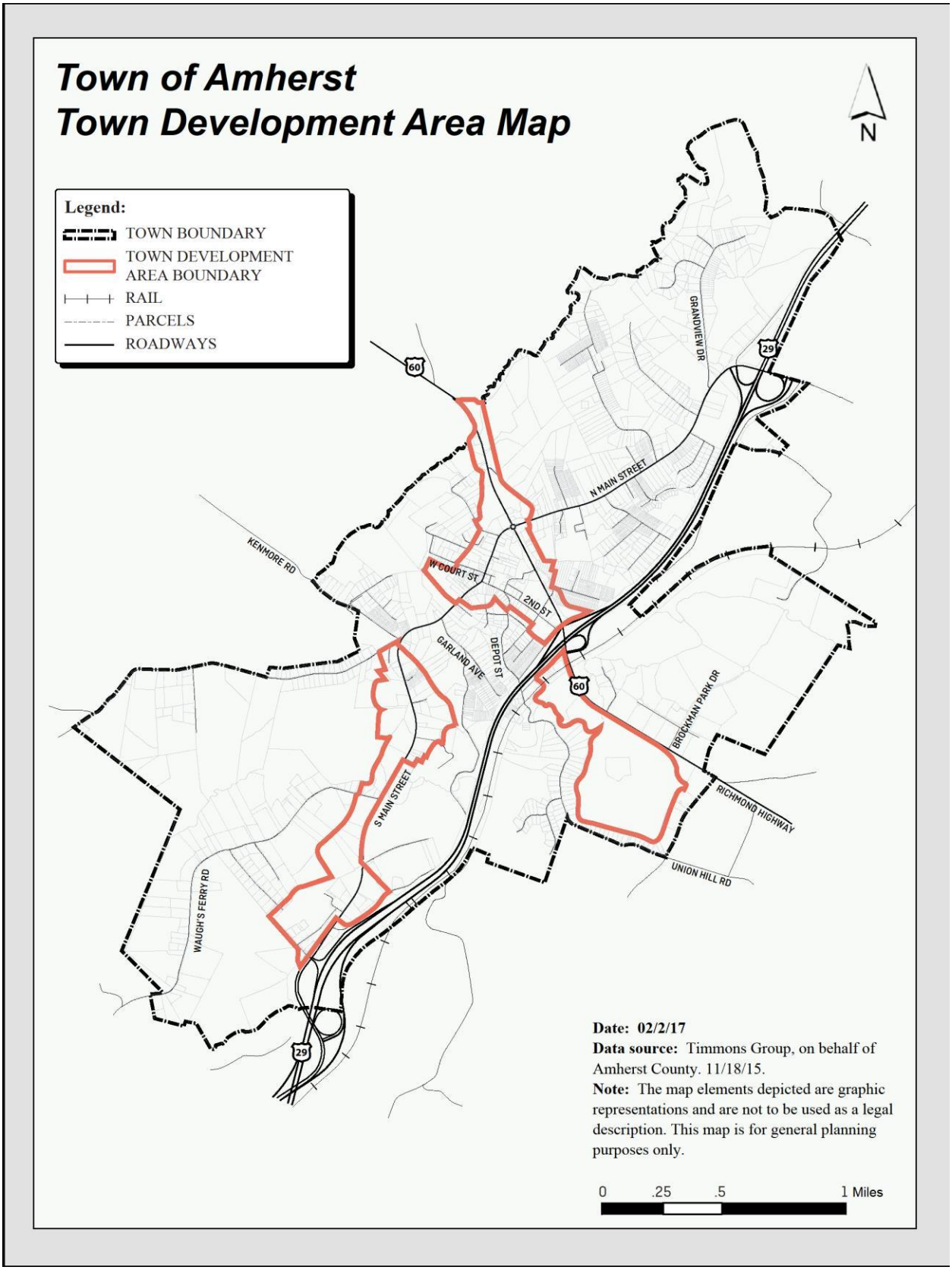
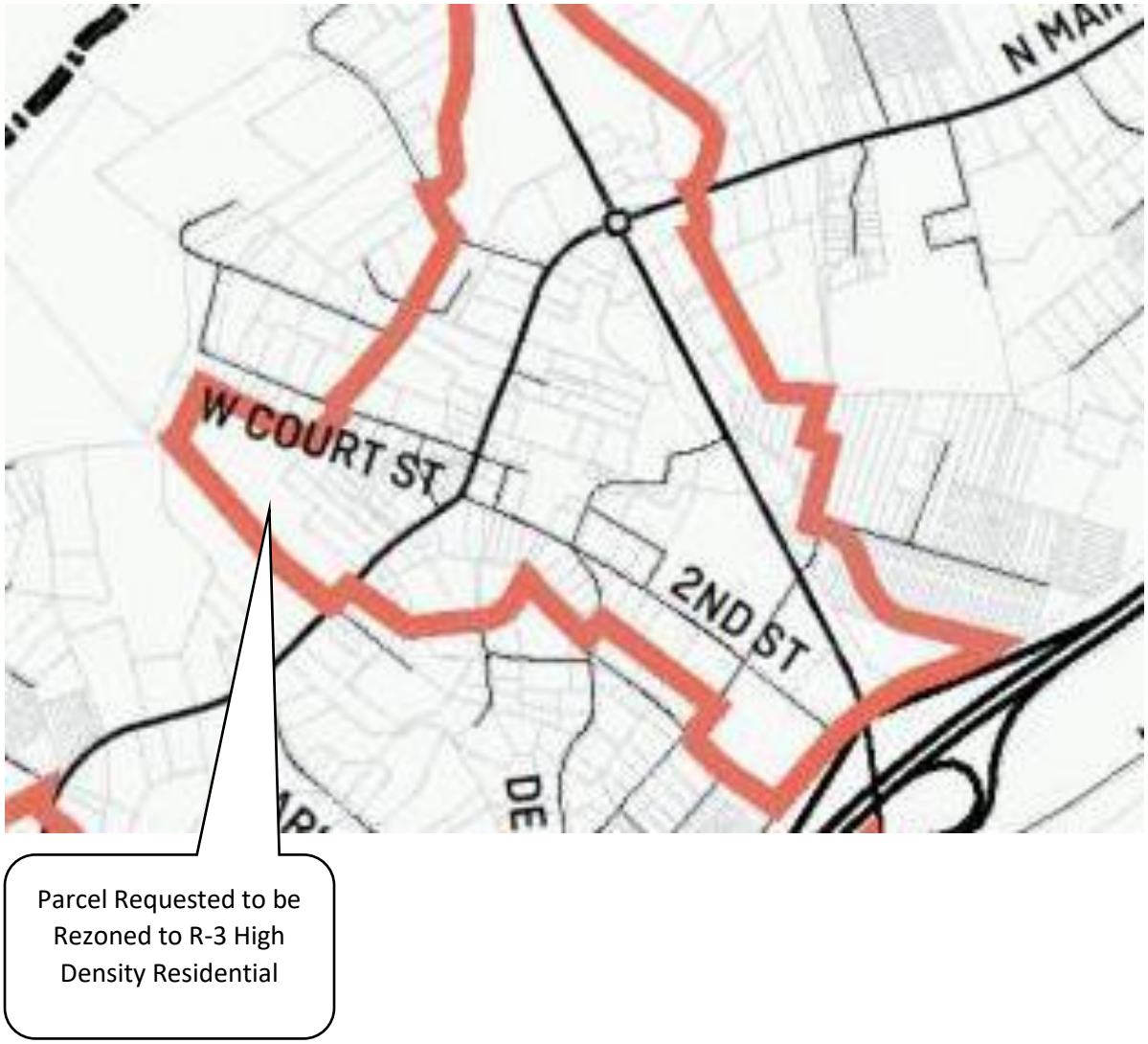
Traditional Town Design Principles

Town Development Areas are intended to encourage development that makes use of traditional town design principles, which are important for the Town because they emphasize walkability and a mixture of housing types and commercial uses. Demand for development with these features is growing nationwide and in Virginia. Encouraging these principles in new development within the TDA will help position the Town of Amherst for growth and economic development, while maintaining its small town look and feel. It is the Town's policy to encourage within the TDAs the following traditional town design principles:

- Pedestrian-friendly road design;
- Interconnection of new local streets with existing local streets and roads;
- Connectivity of road and pedestrian networks;
- Preservation of natural areas;
- Mixed-use neighborhoods and a mixture of housing types;
- Reduction of front and side yard building setbacks; and
- Reduction of subdivision street widths and turning radii at subdivision street intersections to calm traffic on local streets, as permissible by VDOT standards.

The Town intends to review its zoning and subdivision ordinance with the desire to create a special overlay zoning district that allows implementing these principals.

Figure 22: Town of Amherst Town Development Area Map



Detail of Town Growth Area Map