

ORDINANCE # O-2021-_____

AN ORDINANCE TO AMEND §§ 155.003, 155.025, 155.040, 155.041, 155.043, 155.044, 155.045, 155.046, 155.061, 155.062, 156.001, 156.003, 156.015, 156.030, 156.032, 156.049, 156.066, 156.068, 156.084, AND 156.085 OF THE TOWN CODE TO ADD A SECTION NUMBERED 155.006, AND TO REPEAL SECTIONS 155.042 AND 155.063, GENERALLY RELATING TO LAND DISTURBANCE, SITE PLAN, AND SUBDIVISION PLAT REQUIREMENTS AND APPROVAL

WHEREAS, Current Town Code requires a site plan for any use or development in the B-1 District, regardless of impact, which presents an unnecessary administrative burden on property owners, and

WHEREAS, Current Town Code requires Council approval for all site plans, even though review of site plans is, by state law, a ministerial act and largely non-discretionary;

BE IT ORDAINED by the Council for the Town of Occoquan, Virginia meeting in _____ session this ___ day of _____, 2021:

1. That the Town Council hereby amends Town Code §§ 155.003, 155.025, 155.040, 155.041, 155.043, 155.044, 155.045, 155.046, 155.061, 155.062, 156.001, 156.003, 156.015, 156.030, 156.032, 156.049, 156.066, 156.068, 156.084, and 156.085 as follows:

CHAPTER 155. SITE PLAN

§ 155.003 DEVELOPMENT OF LAND USE REQUIRING SITE PLAN.

Except as provided in Section 155.006, A a site plan is required and shall be submitted for approval of:

(A) Any use or development in the B-1 District; Any development that involves the provision of public improvements, such as curbs, parking, water, sewer and stormwater facilities;

(B) Any land use or development in the R-2 District, in any residential planned community division, or the R-1 District; Any improvements involving land disturbance over 625 square feet in area;

(C) Churches, schools, hospitals, and nursing homes; Any additions to existing multifamily, commercial or industrial buildings and uses in excess of 10% of the sum of all gross horizontal areas under a roof or roofs, measured from the exterior faces of walls or from the center-line of party walls, excluding elevator and stair bulkheads, multi-story atriums and similar volumetric construction, not involving floor space;

~~(D) Any exterior addition or change in any existing residential use or development when changing the residential use to commercial, industrial, or institutional use; Any addition to a Place of Assembly as defined in Town Code § 157.008; and~~

~~(E) Any land use or development for which a special use permit (except signs) is required.; except single trailers, and signs.~~

§ 155.025 NUMBER AND SIZE OF SHEETS; NUMBER OF COPIES.

(A) A site plan may be prepared in one or more sheets to show clearly the information required by this Chapter 155 and to facilitate review and approval of the plan. If prepared in more than one sheet, match lines shall clearly indicate where the several sheets join.

(B) The sheets to be used shall be 24 inches by 36 inches, or any multiple thereof.

~~(C) The applicant shall submit a full set of the site plan in a computer file format acceptable to the Town along with two clearly legible blue or black line copies (four administrative, plus Planning Commission members) of a site plan, prepared in accordance with the requirements of this chapter 155, are required to be submitted for approval, as provided in this chapter.~~

§ 155.040 SUBMISSION OF SITE PLAN.

~~The required number of copies of the site plan, preliminary or final, shall be filed with the Town Engineer or designee.~~Planning Commission~~ The filing of the plan, signed by the applicant or his or her agent, shall constitute the application for approval. The plan shall be accompanied by a receipt from the Town Treasurer evidencing the payment of all site plan fees, as prescribed by the Town Council for the examination and approval of site plans.~~

**~~§ 155.041 RESPONSIBILITY OF THE PLANNING COMMISSION
GENERALLY~~REVIEW OF SITE PLAN.**

~~The Town Engineer, assisted by other staff, applicable state agencies, and applicable public authorities, shall review each site plan application for compliance with state code, the Town Comprehensive Plan, and Town ordinances and for consistency with development standards that promote and protect public health, safety, and welfare. Where Town ordinances do not explicitly provide a standard for development, the Town Engineer shall be guided by the applicable provisions of the Prince William County Design and Construction Standards Manual as in effect on the date of the application. The Town Engineer is responsible for forwarding the site plan to state agencies or other public authorities as necessary and for compliance with the time limitations for review under Virginia law. The Planning Commission is responsible for checking the site plan for general completeness and compliance with the adopted plans or such administrative requirements as may be established prior to routing copies to reviewing agencies or officials. It shall see that all examination and review of the site plan are completed by the approving authorities. The Planning Commission shall recommend approval or disapproval of the site plan to the Town Council, in accordance with reviewing authorities' recommendations. It shall then return to the applicant two copies of the site plan, together with modifications, noting~~

any changes that will be required. Such return to the applicant shall be made not later than 45 days from the date of submission, except under abnormal circumstances.

§ 155.043 PERIOD OF VALIDITY OF APPROVED SITE PLAN.

An approved preliminary site plan shall become null and void if the final site plan is not submitted to the ~~Planning Commission~~ Town Engineer within six months from the date of approval of the preliminary plan. An approved final site plan shall be valid for a period of five years from the date of approval thereof. A site plan shall be deemed final once it has been reviewed and approved by the ~~Council~~ Town Engineer if the only requirement remaining to be satisfied in order to obtain a building permit is the posting of any bonds and escrows. Construction or development may begin upon approval by ~~Council~~ the Town Engineer of the final site plan, upon payment of site plan fees and acquisition of construction permits. The ~~Planning Commission~~ Town Engineer may grant a single one-time, six-month extension, upon written request of the applicant, made at least 30 days before the expiration of the approved site plan.

§ 155.044 MINOR ADJUSTMENTS OF APPROVED SITE PLAN; EFFECT OF DEVIATIONS FROM APPROVED SITE PLAN.

After a site plan has been approved by the ~~Town Council~~ Town Engineer, minor adjustments of the site plan, which comply with the spirit of this section and other provisions of this ~~subchapter~~ Chapter 155, with the intent of the approving bodies in their approval of site plans, and with the general purpose of the master plan for development of the area, may be approved by the ~~Planning Commission~~ Town Engineer, with concurrence of the reviewing authorities concerned. ~~Deviation from an approved site plan without the written approval of the Planning Commission shall void the plan, and the Planning Commission shall require the applicant to submit a new site plan for consideration. Any such minor adjustment must be in writing signed by the Town Engineer to be effective. No such minor adjustment shall be granted that has the effect of a zoning variance.~~

§ 155.045 MAJOR REVISIONS OF APPROVED SITE PLAN; WAIVER OF REQUIREMENTS OF SUBCHAPTER CHAPTER 155.

Application for approval of any major revision of an approved site plan may be made in the same manner as for approval of an original site plan; and any requirement of ~~this subchapter~~ Chapter 155 may be waived by the ~~Town Council~~ Town Engineer in specific cases where such requirement is found to be unreasonable in terms of burden on the developer in relation to the public benefit and where such waiver will not be adverse to the purposes of ~~this subchapter~~ Chapter 155. Any such waiver shall be made in writing supported by an analysis of the private burden and public benefit involved and the substitute, if any, proposed in place of the waived requirement. No such waiver shall be granted that has the effect of a zoning variance.

§ 155.046 EXTENSION OF SITE PLAN APPROVALS TO ADDRESS HOUSING CRISIS.

(A) Any valid final site plan outstanding as of January 1, 2009, shall remain valid until July 1,

~~2014, or such later date provided for by the terms of the town's approval, local ordinance, resolution, or regulation, or for a longer period as agreed to by the Town Council by express action and recorded roll call vote. Any other plan or permit associated with such site plan extended by this section shall likewise be extended for the same time period.~~

~~(B)~~ The extension of site plan validity provided under state law to address the housing crisis ~~in division (A) above~~ shall not be effective unless any performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.

§ 155.061 ~~CONSTRUCTION REQUIREMENTS~~ INSPECTION OF IMPROVEMENTS.

~~The construction standards for off site improvements and on site improvements, required by this chapter, shall conform to the design and construction standards of the town. The Planning Commission or its agents shall approve the plans and specifications for all required improvements, and The Town Engineer and applicable state or local agencies shall inspect the installation of such improvements shown on the approved final site plan to assure conformity to the plan. Such inspection and approval of the improvements is required for bond release.~~

§ 155.062 AGREEMENT AS TO CONSTRUCTION.

Prior to approval of the final site plan, the applicant shall execute an agreement to construct such required improvements as are located within public rights-of-way or easements or such as are connected to any public facility, and shall file a performance bond with surety acceptable to the town in the amount of the estimated costs of the required improvements, ~~as determined by the Planning Commission.~~

CHAPTER 156. SUBDIVISIONS

§ 156.001 DEFINITIONS.

[The following definition is modified as shown; the remainder of the section is unchanged by this ordinance]

AGENT. The representative of the ~~Planning Commission~~ Town who has been appointed to serve the ~~Commission~~ Town Council in the processing, reviewing, and approving of preliminary subdivision plats.

§ 156.003 EXCEPTION.

(A) Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, and where, because of topographical or other conditions peculiar to the site, and where, in the opinion of the agent, an exception may be made without destroying the intent of such provisions, the agent, ~~with approval of the Council,~~ may authorize an exception.

(B) (1) Any exception to be authorized shall be stated, in writing, by the agent, with the reasoning upon which the exception is justified, and shall be noted on the plat.

(2) No exception to this Chapter 156 may be granted if it is opposed, in writing, by ~~the highway engineer or health official~~ Virginia Department of Transportation or the Virginia Department of Health.

§ 156.015 APPOINTED.

The agent appointed by the Town Council is delegated the responsibility and authority to oversee administration of this Chapter 156 and shall have the responsibility of approving or denying ~~the preliminary~~ plats.

§ 156.030 PLATTING REQUIRED.

Any owner or developer of any tract of land situated within the town who subdivides a parcel of land shall prepare a plat of such subdivision, in accordance with the provisions of this Chapter 156, and shall record the plat in the office of the Clerk of the Court. No such subdivision plat shall be recorded unless it has been ~~submitted to~~ approved by the agent, ~~approved, and certified by the Planning Commission~~ in accordance with the regulations set forth in this Chapter 156.

§ 156.032 APPEALS.

If a final plat of a subdivision is denied by ~~Planning Commission~~ the agent, the subdivider may appeal the decision of the ~~Planning Commission~~ agent to the Circuit Court of the county. If a preliminary plat has been denied by the agent, the subdivider may appeal the decision of the agent to the Planning Commission.

§ 156.049 CHANGES.

No change, erasure, or revision shall be made on any subdivision plat intended for recording, nor on accompanying data sheets, after the written approval of the ~~Planning Commission~~ agent on the plat or sheets, unless written authorization for such change has been granted by the agent ~~Planning Commission.~~

§ 156.066 SUITABLE LAND.

The ~~Planning Commission~~ agent may not approve the subdivision of land if it has been determined that, from adequate investigations conducted by all public agencies concerned and in the best interest of the public, the site is not suitable for the platting and development purposes being proposed. The ~~Planning Commission~~ agent may require the subdivider to furnish topographic maps, floodplain profile elevation information, or other relevant information.

§ 156.068 IMPROVEMENTS.

(A) *Cost of required improvements.* All required improvements shall be installed by the subdivider at his or her cost. Specifications that have been established either by the State Department of Transportation (VDOT) for streets or town regulations, ordinances, and codes

shall be followed. The subdivider's bond shall not be released until all construction has been completed and approved by the Town Engineer or appropriate official. All improvements shall be in accordance with the requirements of this section.

(B) *Construction of public streets.* All public streets in the proposed subdivision shall be designed and constructed in accordance with the standards set by VDOT for acceptance into the state secondary road system, and at no cost to the town.

(1) *Alignment and layout.*

(a) The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas and proposed streets, as shown on the approved site plan. The street arrangement must cause no unnecessary hardship to owners of adjoining property when seeking convenient access to their property.

(b) Where, in the opinion of the agent, it is desirable to provide for street access to adjoining properties, the right-of-way of the proposed streets shall be extended to the boundary line of such properties.

(c) Half streets along the boundary of land proposed for subdivision shall not be permitted; ~~unless approved by Town Council.~~

(d) Wherever possible, streets shall intersect at right angles. In all hillside areas, streets running with contours shall be required to meet the intersecting streets at angles of not less than 60 degrees unless approved by the agent upon recommendation of the highway engineer.

(2) *Alleys in new subdivisions.* Use of alleys in new subdivisions is not permitted.

(3) *Private streets.*

(a) Private streets shall not be allowed in any new subdivisions; except that townhouse, multifamily, and apartment projects may have access to a publicly maintained road via a private street, provided that it meets the appropriate design standards as approved by the ~~Planning Commission of the town regulations~~ Town Engineer. In no case shall there be reserve strips.

(b) Private streets shall be platted such that all lot owners are assured perpetual right of access to a publicly maintained street. The final plat shall note each private street as "privately owned and privately maintained by the lot owner(s)". The final plat shall also provide an adequate easement for ingress, egress, maintenance of utilities, and public agencies, including police and fire departments.

(c) Private streets shall be constructed of minimum pavement design of six-inch 21A subgrade and two-inch SM-2A asphalt surface, or other such road section approved by the Town Engineer. Dead-end streets or cul-de-sacs shall be terminated with a turnaround approved by the Town Engineer.

(4) *Names.*

(a) Proposed streets that are obviously in alignment with other existing and named streets shall bear the names of the duplicate existing street names, regardless of the use of the suffixes "street", "avenue", "boulevard", "road", "driveway", "place", "lane", or "court".

(b) Street names shall be indicated on the preliminary and final plats and shall be approved by the Council.

(c) Names of existing streets shall not be changed, except by approval of the Town Council.

(d) Street names shall be approved by County GIS for full use in the 9-1-1 system.

(5) *Identification signs.* Street identification signs shall be readable from either side, of a design

approved by the Town Council, and installed at all intersections by the subdivider.

(C) *Monuments.*

(1) *Installation.* All monuments shall be installed by the subdivider and shall meet the minimum specifications described in this division (C). Upon completion of subdivision streets, sewers, and other improvements, the subdivider shall make certain that all required monuments are clearly visible for inspection and use. Such monuments shall be inspected and approved before an occupancy permit is issued by the Building Official.

(2) *Location.* All lot corners shall be marked with iron pipe not less than three-fourths inch in diameter and 18 inches long, and driven so as to be flush with the finished grade.

(D) *Water facilities.* Public water service shall be extended by the subdivider to all lots within a subdivision, in accordance with the approved site plan.

(E) *Sewerage facilities.* Public sewerage facilities shall be extended by the subdivider to all lots within a subdivision, and septic tanks will not be permitted. The subdivider shall provide each lot with a satisfactory and sanitary means of sewage collection and disposal in accordance with the approved site plan.

(F) *Storm drainage facilities.* The subdivider shall provide all necessary information needed to determine what drainage improvements are necessary to develop such property. The subdivider shall install the approved storm drainage facilities in accordance with the approved site plan.

(G) *Fire protection.* Fire hydrants shall be required in a subdivision at locations approved by the agent, provided adequate public water is available. The location and design of the fire hydrants shall meet the American Insurance Association's specifications and be in accordance with the approved site plan.

(H) *Easements.* The ~~Planning Commission~~ agent may require the subdivider to provide easements through adjoining property. The width of easement provided for drainage, water, sewer, power lines, and other utilities in the subdivision shall be determined by the ~~Planning Commission~~ agent.

(I) *Plans and specifications.* Six blue or black line prints of the plans and specifications, for all required physical improvements to be installed, shall be prepared by an engineer or land surveyor and shall be submitted with the final plat to the agent for approval within 30 days. If approved, one copy, bearing certification of such approval, shall be returned to the subdivider. If denied, all papers, except for one copy, shall be returned to the subdivider, with written reason(s) for denial.

(J) *Bonding.*

(1) *Performance bond.*

(a) The subdivider shall furnish a cash bond or equivalent, a surety bond of a surety company, or a certified check, payable to the town, in an amount equal to the total cost of the public improvements determined by the ~~Council~~ agent using the most recent county unit price list. Such bond or check shall guarantee that the improvements will be installed within a

reasonable length of time in a manner acceptable to the ~~Council~~ agent. The bond or check shall accompany the final plat. When construction has been completed, approved, and accepted on sections of the required improvements, the ~~Council~~ agent may release the bond submitted for the amount of the entire required improvements or a portion thereof leaving an amount adequate to cover the entire cost of the improvements yet to be constructed, approved, and accepted.

(b) Occupancy permits shall not be issued until all proposed public and private improvements on a site plan are completed; however, the Zoning Administrator shall have the authority, in his or her discretion and in appropriate cases, to accept a completion bond in a satisfactory amount to ensure completion of public or private improvements in lieu of actual completion where the Zoning Administrator finds that a completion bond adequately protects future owners.

(2) *Maintenance bond.* The subdivider shall be required to file a maintenance bond with the town in an amount considered adequate and in a form satisfactory to the town, in order to assure the satisfactory condition of the required landscape improvements, for a period of one year after the date of their acceptance. ~~by the Town Council.~~

(3) *Phased development.* If development is projected over a period of years, the ~~Planning Commission~~ agent may authorize submission of final plats by section or phase of development, subject to requirements or guarantees for improvements in future sections or phases of development essential for the protection of any approved section of development.

(4) *Absence of bond.* In the absence of a performance bond or check, no final plat shall be approved or recorded until the required improvements have been installed and approved by the agent or his or her authorized representative.

(5) *Final as-built drawings.* Final as-built drawings, showing all subsurface utility conditions, shall be provided prior to release of the performance bond. Three certified reproducible copy shall be provided to the agent, with accompanying letter certifying accuracy, submitted in sufficient time to permit review prior to release of performance bond.

(K) *Sidewalks.* Sidewalks shall be constructed in all subdivisions in accordance with the specifications of VDOT.

(L) *Curb and gutter.* Where deemed necessary by ~~the agent the Planning Commission~~, curbs and gutters shall be installed in accordance with the standards and specifications of the Town Engineer and VDOT.

§ 156.084 APPROVAL OF FINAL PLAT.

The completed plat shall be submitted to the ~~Planning Commission~~ agent for approval. The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this Chapter 156 and has made satisfactory arrangements for performance bond, cash, or cash bond to cover the cost of necessary improvements, in lieu of construction, to the satisfaction of the town. Upon the approval by the

~~Planning Commission~~agent, the plat will be signed by the ~~Planning Commission~~ or its agent, marked “approved”, and returned to the subdivider, who will cause the plat to be recorded in the Clerk’s office of the Circuit Court of the county. No plat shall be recorded until approval has been made. If the plat submission is denied, the ~~Planning Commission~~ agent will return the plat to the subdivider, indicating corrections to be made by the subdivider.

§ 156.085 EXTENSION OF SUBDIVISION PLAT APPROVALS TO ADDRESS HOUSING CRISIS.

~~Provisions for extension of zoning approvals shall be in conformance with VA Code § 15.2-2209.1.~~ The extension of subdivision plat validity provided under state law to address the housing crisis shall not be effective unless any performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.

2. That the Town Council hereby adds a new section numbered 155.006 to the Town Code as follows:

§ 155.006 SITE SKETCH IN LIEU OF SITE PLAN REQUIREMENT.

The following types of development shall not require submission or approval of a site plan, but shall require approval of a site sketch showing the location of all site improvements or alterations, a scale, a north arrow, the site address(es), the name of the preparer, and the date of preparation. The site sketch shall comply with the substantive requirements of this Chapter 155. The Town Engineer will review a submitted site sketch and either issue an approval of it or return it with the reasons for its rejection within 60 days. Prior to commencing the development permitted under the approved site sketch, the property owner shall post a copy of the approval document in a prominent place on the property, visible to the public from the public right-of-way adjacent to the property. The approval document must remain posted in such location until completion of the development.

(A) Land disturbance over 625 square feet in area but less than 2,500 square feet in area.

(B) Land use or development on a single lot in the R-1 or R-2 district where (i) the lot contains an existing dwelling unit that is not being removed in connection with the land disturbance and (ii) less than 2,500 square feet of land will be disturbed.

3. That Sections 155.042 and 155.063 of the Town Code are repealed.

4. That this ordinance is effective _____.

MOTION:

SECOND:

Date: _____

Regular Meeting

Ord. No. _____

RE:

ACTION:

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

CERTIFIED COPY _____

Town Clerk