



## **STAFF REPORT**

**TO:** Planning Commission  
**FROM:** Daniel Galindo, AICP – Senior Planner  
**SUBJECT:** Zoning District Use Changes Amendment  
**DATE:** August 28, 2015

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### **SUMMARY**

The Planning Commission has conducted a three and a half (3 ½) year effort to review the lists of permitted uses and uses permitted by special use permit in every zoning district within the Zoning Ordinance. Based on feedback received from the public at three (3) input sessions held on July 7-9, 2015 and the results of an external legal review, a draft amendment to revise the uses which would be permissible in each zoning district is being proposed by the Planning Commission. A public hearing over this draft amendment will be held before the Planning Commission on September 3, and the Commission will discuss any comments received during the hearing at a work session immediately following that night's regular meeting. Per the Chairman's direction to staff, the amendment will not be listed as an action item until the Planning Commission's September 17 meeting, at the earliest, so no motions are being provide at this time.

### **BACKGROUND**

The *Purcellville, Virginia 2025 Comprehensive Plan (2025 Plan)* was adopted on December 19, 2006 and is still in effect today. As required by § 15.2-2230 of the Code of Virginia, the Purcellville Planning Commission reviewed the *2025 Plan* from February 2011 to September 2011. On October 6, 2011 the Planning Commission held a public hearing over proposed amendments to the *2025 Plan*, and it voted on November 10, 2011 to recommend that Town Council adopt these amendments. After transmitting its recommendation, the Planning Commission began a review of the lists of permitted uses and uses permitted by special use permit (SUP) in every zoning district within the Zoning Ordinance in February 2012. The goals of this review were to make the Ordinance more user friendly by simplifying the lists of uses and ensuring any uses requiring a special use permit warrant this extra level of review.

Over the following three (3) years, the Planning Commission's review sometimes included discussion of proposals that went beyond amending the uses allowed within the Town's zoning districts, but in the end, the Commission decided to prepare a proposal generally guided by five rules:

1. Simplify and modernize the list of uses;
2. Reduce the number of SUPs where warranted;
3. No rezonings to be proposed;
4. No significant changes to district purposes; and
5. Avoid creating nonconforming uses unnecessarily.

A draft proposal to amend the uses allowed within the Town's zoning districts was presented to the public at three input sessions held July 7-9, 2015. These sessions provided the Planning Commission an opportunity to hear directly from the Town's citizens, business owners, and neighbors. Over the course of the three sessions, 35 individuals provided comments (including 8 individuals that spoke on multiple nights); in addition, 9 emails were sent to the Planning Commission by 8 individuals. After each input session, the Planning Commission held a work session to consider and discuss the comments received. In response to the public's comments, the Commission made a number of changes to the proposal which are further detailed in the next section of this report.

After finalizing these changes, staff created a draft redline document showing the additions and deletions to the Zoning Ordinance that would be necessary to implement the Planning Commission's proposal. This document was then submitted for a legal review conducted by Sharon Pandak, Esq. of Greehan, Taves, Pandak & Stoner. In response to Ms. Pandak's review comments, staff revised the draft as detailed in a later section of this report, and the resulting amendment document (redline version attached) was posted to the Town's website on August 20 at: <http://purcellvilleva.gov/index.aspx?NID=688>. Generally, the proposed amendment accomplishes the following:

1. Any land annexed or brought in to the Town via boundary line adjustment shall be classified as X Transitional District;
2. All of the separate lists of permitted uses and SUPs in the current zoning ordinance have been reorganized in a single, unified table including all uses and all districts;
3. The list of permissible uses has been simplified from the 315 uses found in the current ordinance to the 111 uses being proposed;
4. The vast majority of regulations and standards for specific uses have been reorganized and centralized in a single section of the ordinance;
5. Every use listed in the ordinance now has a corresponding definition; and
6. The ordinance has been updated to correct terminology, provide better cross-referencing, and make it easier to read overall.

A more detailed summary of the changes proposed by the amendment can be found in the public notice advertisement for the Planning Commission's public hearing which ran in the *Purcellville Gazette* on August 21 and 28 (attached). In addition to meeting the minimum legal requirements for providing public notice by publishing such advertisement, the Town is also mailing individual notices to any existing business or property owner that would have their use become a nonconforming use or change classification from permitted to SUP because of the proposed amendment.

**CHANGES IN RESPONSE TO JULY PUBLIC INPUT SESSIONS**

In response to the input received during the July public input sessions, the Planning Commission made a number of changes to the proposal as detailed below.

The following uses and their corresponding definitions were deleted:

- Electronic data storage centers < 10,000 square feet
- Electronic data storage centers > 10,000 square feet
- Live entertainment, indoor (*replaced by Theater*)
- Live entertainment, outdoor (*replaced by Amphitheater*)
- Movie theater, indoor (*replaced by Theater*)

The following uses and their corresponding definitions were added:

- Amphitheater
- Theater

The phrasings of the following uses\* were changed for consistency and clarity:

<b>Previous Phrase</b>	<b>Current Phrase</b>
Assisted living facility < 9 individuals	Assisted living facility – 1-8 individuals
Assisted living facility > 8 individuals	Assisted living facility – 9 or more individuals
Financial institutions, ATM machine only	Automated teller machine (ATM), accessory
Bed & Breakfast	Bed and breakfast
Brewery, winery & distillery provided such facilities are open to the public	Brewery, winery or distillery
Churches and other places of worship	Church or other place of worship
Clinics, urgent care medical and dental	Clinic, urgent care
Commercial uses > 10,000 sq ft	Commercial uses of greater than 10,000 square feet
Communication tower	Communications tower
Community and cultural facilities	Community or cultural facility
Dry cleaners and laundry establishment	Dry cleaning and laundry establishment
Farm equipment & supply sales and service	Farm equipment and supply sales and service
Fuel pump, internal for business use only	Fuel pump, accessory
Hotel or motel	Hotel ( <i>Motel definition deleted</i> )
Laboratory, research, experimental or testing	Laboratory
Commuter parking lot	Parking lot, commuter
Parking lot	Parking lot, public
Public or government buildings, facilities, and uses not otherwise defined	Public or government building, facility, or use not otherwise defined
Radio or television station studios	Radio or television studio
Recreation facilities, commercial indoor < 10,000 sq ft	Recreation facility, commercial indoor – less than or equal to 10,000 square feet
Recreation facilities, commercial indoor > 10,000 sq ft	Recreation facility, commercial indoor – greater than 10,000 square feet

<b>Previous Phrase</b>	<b>Current Phrase</b>
Recreation facilities, commercial outdoor < 20,000 sq ft	Recreation facility, commercial outdoor – less than or equal to 20,000 square feet
Recreation facilities, commercial outdoor > 20,000 sq ft	Recreation facility, commercial outdoor – greater than 20,000 square feet
Service repair establishment	Service/repair establishment
Yard sale or Garage sale	Yard/garage sale
* <i>Uses which were only changed from plural to singular, by correcting capitalization, and/or by correcting punctuation are not listed.</i>	

The permissible uses in a particular zoning district were changed as follows:

1. *Agriculture/horticulture* was added as a permitted use in the X district.
2. *Amphitheater* was added as a SUP in the MC, C-4 and IP districts.
3. *Child care, commercial* was added as a SUP in the C-4 district.
4. *Concrete plant* was deleted as a use in the M-1 district.
5. *Fueling station* was changed from a permitted use to a SUP in the MC district.
6. *Parking structure* was changed from a permitted use to a SUP in the C-1, MC, C-4, CM-1, M-1 and IP districts.
7. *Park* was added as a permitted use in the C-1 district.
8. *Retail sales, general* was added as a SUP in the CM-1 and M-1 districts.
9. *Theater* was added as a SUP in the MC, C-4 and IP districts.
10. The uses allowed in the PDH district now only include those that directly correspond to the uses currently listed in the zoning ordinance; no uses are being added to the district.

Definitions were changed as follows:

1. *Automated teller machine (ATM), accessory* was modified to clarify that an ATM does not have to be within a building.
2. *Food processing, retail* and *Food processing, wholesale* were modified to clarify that these uses do not include the slaughtering of animals.
3. *Motel* was deleted.
4. *Printing, publishing and engraving* was modified to delete large printing plants from the use.
5. *Special event* was modified to limit the duration of an event to 7 days or less.
6. *Temporary food truck/trailer* was modified to limit the duration it can be parked in town to no longer than 3 days consecutively or 60 total days within a calendar year.

Finally, the various use regulations found within the current ordinance were reorganized to follow the proposed use table, and additional regulations were added for certain uses as discussed with the Planning Commission at its work session on July 23. (See pages 9-22 of the draft amendment.)

### **CHANGES IN RESPONSE TO LEGAL REVIEW**

In response to the legal review conducted by Sharon Pandak, Esq. of Greehan, Taves, Pandak & Stoner, staff revised the proposal as detailed below.

1. Use regulations for *Child care, residential* were deleted because § 15.2-2292 of the Code of Virginia prohibits imposing regulations that are more restrictive than those imposed on single family residences. – See Article 4, Section 1.2 (p. 11)
2. Certain use regulations for *School, special instruction* and *School, technical* were deleted because they only apply to *School, private*. (Regulations for these uses were previously combined in Article 6, Section 7.) – See Article 4, Section 1.2 (p. 19-21)
3. Within the A-C district, regulation of on premises tasting at wineries was deleted because § 15.2-2288.3 of the Code of Virginia prohibits such regulation. – See Article 4, Section 15.9 (p. 92)
4. *Article 8, Section 1.3: Specific Guides and Standards* was modified to clarify that SUPs should comply with the standards of the ordinance unless Town Council specifically waives such standard. – See p. 107-108
5. Language was deleted from *Article 8, Section 1.4: Procedures for Approval of Special Use Permits Which Require Approval by the Town Council* regarding an SUP concept plan being “sufficiently detailed to be judged for its superiority to other forms of development.” SUPs go through a higher level of review to ensure that any external effects of the use are mitigated, but SUPs are not held to a standard of being “superior” to other uses. – See p. 109
6. The definition of *Agriculture/horticulture* was modified to more closely match the definitions of § 3.2-300 and § 3.2-6400 of the Code of Virginia as referenced in § 15.2-2288.6, and definitions were added for *Agricultural operation* and *Agricultural product* matching the definitions for such terms in § 3.2-300 and § 3.2-6400, respectively. – See Article 15, Section 2 (p. 128)
7. The definition of *Assisted living facility* was modified to more closely match the language found in § 15.2-2291 of the Code of Virginia. – See Article 15, Section 2 (p. 128)
8. The definition of *Cemetery* was modified to more closely match the definition in § 54.1-2310 of the Code of Virginia as referenced in § 15.2-2288.5. – See Article 15, Section 2 (p. 130)
9. The definition of *Church and other place of worship* was modified to clarify that child care and educational uses are not part of a church unless allowed by the ordinance’s use regulations. – See Article 15, Section 2 (p. 131)
10. Language requiring a *Laboratory* to “be free of dust, smoke, fumes, odors, or unusual vibrations or noise” was deleted from the definition and added as a use standard. – See Article 4, Section 1.2 (p. 18) & Article 15, Section 2 (p. 139)

## **ATTACHMENTS**

- Draft Ordinance Amendment (redline)
- Public Notice Advertisement