



**PLANNING COMMISSION STAFF REPORT**  
**PUBLIC HEARING**

**SUBJECT:** Zoning Code Text Amendment 2021-05

**DATE OF MEETING:** July 15, 2021

**STAFF CONTACTS:** Don Dooley, Director of Planning and Economic Development  
Sally Hankins, Town Attorney

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**SUMMARY and RECOMMENDATIONS:**

Zoning Code Text Amendment 2021-05 is a request to expand the Purcell Historic Corridor and Overlay District by including all eligible and designated historic resources within the Town that are not within the District and to amend Article 14A of the Purcellville Zoning Code for the purpose of including the historic properties in the District. Proposed changes to Article 14A also include various modifications to the ordinance concerning regulatory and implementation processes to provide greater administrative clarity.

Staff recommends that the Planning Commission take public testimony on Zoning Code Text Amendment 2021-05 and provide feedback to staff concerning how it wishes to proceed with the proposed text amendments to Article 14A, including any modifications to the proposed expansion to the Historic Corridor Overlay Zone Map and continue this item to either July 29, 2021 or September 2, 2021.

**BACKGROUND**

Purcellville Comprehensive Plan

On June 30, 2020, the town of Purcellville adopted its 2030 Comprehensive Plan in compliance with the requirements of the Code of Virginia. This broad-based public policy document expresses the community's values and the Town's vision of itself over the next ten years to help guide its physical development and evolution in a clear and consistent manner. It was accomplished by developing implementation recommendations based on community engagement activities and public hearings that reflected citizen input as well as the wants and needs of the community. Although the Comprehensive Plan is not a regulatory

document, it is the foundation on which all Town policies and regulations, including those contained in the Town's zoning code, are based on in order implement the vision of the Comprehensive Plan. Hence, all existing and proposed regulations for the Purcellville Zoning Code are to be consistent to reflect the broad recommendations identified in the Town's Comprehensive Plan.

Within the Purcellville Comprehensive Plan are several topical plans that provide guidance on various community assets in town. They "... provide recommendations for programs and practices ...[which] may occur through the Town's development regulations or additional strategic or operational polices and plans." By doing so, it helps recognize, conserve, and incorporate these assets into town planning efforts. One of the identified topical plans concern historical resources in Purcellville.

#### Purcellville's Historic Resources and its Historic District

As discussed in the Comprehensive Plan, Purcellville is home to properties listed on both the *National Register of Historic Places* and the *Virginia Landmarks Register*. However, it is the Purcellville Historic District ("District") that is the largest resource in town as it is composed of hundreds of residential and non-residential buildings and structures that contribute to the historic significance of the District. National Register Bulletin 15 defines a historic district as a place possessing "... a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan of physical development."

The District (and the contributing properties to the district) have been listed in both the *Virginia Landmarks Register* (in 2006) and the *National Register of Historic Places* (in 2007). The historic significance of the District was developed through a historic resource survey that was completed in 2006 by the firm, *History Matters* on behalf of the Town. The contextual or historic significance of the 293-acre Purcellville Historic District is based on its architectural importance as a "...collection of historic buildings and structures that illustrate [the] architectural and historical trends from circa 1830 to 1957 in Loudoun County, Virginia." The District is also significant for its association with broad patterns of history which, in this case, is related to transportation development as, "*Purcellville's history reflects local and regional trends during its period of significance; its growth was intimately linked to transportation developments in the 19<sup>th</sup> and 20<sup>th</sup> centuries and to municipal improvements in the early 20<sup>th</sup> century*" according to the National Register nomination prepared by *History Matters*.

#### Purcellville's 2030 Comprehensive Plan Recommendations for Historic Resources

As stated in the 2030 Purcellville Comprehensive Plan concerning historic resources, it is recommended [that the town] "... consider in all land use and development decisions to

*continue practicing and incorporating historical resources into the fabric and character of Purcellville*” in addition to the following 12 specific recommendations:

1. **Consider amending the Town's historic zoning overlay district to be more inclusive of all historically contributing structures even in non-contiguous areas and entertain recommendations from relevant entities to expand recognition of historic assets within Town.**
2. Consider becoming a Certified Local Government (CLG).
3. Coordinate efforts with the Purcellville Historical Society, the Purcellville Train Station Advisory Board, and other relevant organizations.
4. Include historical information in signs, walking tours, online, and other information sources about the Town.
5. Ensure any new development within the Purcellville Historic District and Historic Corridor Overlay Zoning District reflects the scale, design, and layout of existing historic buildings.
6. Amend the Design Guidelines to:
  - a. Create standards that specifically apply to the historic commercial buildings within the Town.
  - b. Ensure new development outside of the historic districts reflects the Town’s character.
7. Continue efforts for preservation of structures on the Aberdeen property.
  - a. Restore the house through appropriate partnerships, or subdivide the property and sell the house with the caveat that the buyer must restore the house.
  - b. Establish a working group to further examine potential revenue generating uses for this property with emphasis of agriculture, tourism, and recreation.
8. Work with the owners of the Dillon House, the oldest house in Purcellville data back to 1795, to assess opportunities for restoration and transformation it into a working historic community asset.
9. Consider options to preserve the barn and silo on the community garden property adjacent to Village Case.
10. Review and update accordingly the Town’s historical survey.

11. Advance efforts to convert portions of the Purcellville Train Station into a museum and welcome center.
12. Collaborate with land owners to sustain agricultural community assets through partnerships, patience, and a commitment to achieve innovative and workable long-term agricultural economic plans.

#### Article 14A of the Purcellville Zoning Code

Under Article 14A of the Purcellville Zoning Code, the *Historic Corridor Overlay District* (“HCOD”) was codified in 2005 and the boundaries of the overlay district incorporated into the Town’s zoning map to help implement the 1998 version of the town’s adopted comprehensive plan recommendations which, in part, directed the Town to, *“Investigate local historic district designation and the creation of an historic overlay district...”* As stated in Section 1 (Intent), Article 14A, of the Purcellville Zoning Code, the *“Intent of the historic corridor overlay district is intended to implement the Purcellville comprehensive plan goals of protecting the town’s unique historical and architectural character, ensuring that new development is in keeping with the small-town character of Purcellville, encouraging aesthetic treatment along the entrances to town to provide an attractive entry into the historic town core, and promoting tourism and visitor opportunities through historic preservation and Main Street revitalization...”* When the ordinance was codified and the HCOD was added to the zoning map, it only applied to properties that fronted onto the following vehicular corridors (in their entirety) within the town and nowhere else:

1. Main Street (Business Route 7).
2. Route 287 (Berlin Turnpike).
3. Route 690 North (23<sup>rd</sup> and 21<sup>st</sup> Street).
4. Route 690 South (32<sup>nd</sup> Street).
5. Route 1604 (21<sup>st</sup> Street between Main and 23<sup>rd</sup> Streets).

Although buildings and structures for residential use are a part of the current HCOD, Article 14A exempts all *“Construction or alteration of main and accessory buildings or structures in single-family detached residential use or in an agricultural and forestal district where no site plan is required for the work. Demolition of historic structures is NOT exempted by this section, including demolition by neglect.”* In other words, with the exception of the demolition requirement, all historic residential buildings and structures in single-family, detached, residential use in the HCOD are exempt from all of the other zoning overlay requirements in the HCOD. Therefore, Article 14A is effectively written to focus on trying to encourage some

degree of preservation only to non-residentially used historic resources (that are not single-family detached buildings and structures) as well as to protect the “community character” of Purcellville through architectural review of changes made to both non-residential and non-historic buildings and structures developed on lots/parcels with street frontage immediately adjacent to the vehicular corridors in Town, as identified above (see Attachment “A”).

#### Architectural Control Overlay District

It should also be noted that the design guidelines/criteria used by the Purcellville Board of Architectural Review (“BAR”) for non-residential buildings and structures in the Historic Corridor Overlay District (“HCOD”) is specified in Section 8 of Article 14A. The criteria are exactly the same used by the BAR to evaluate changes made to buildings and structures in the town-wide Architectural Control Overlay District (“ACOD”). This is a separate overlay district that overlaps and supports design goals of the existing HCOD. The ACOD is fundamentally intended to promote architectural compatibility between new construction and modifications with existing buildings in Town of ensure that all new construction is consistent with the established character of the Purcellville. However, there are no residential design guidelines in ACOD as Section 54-6 (Designation of Districts) of the Purcellville Town Code exempts residentially zoned properties from the regulatory requirements of the Architectural Control Overlay District (just as the Historic Corridor Overlay District does for residential properties) unless residentially zoned property is used for non-residential purposes or if a land-use entitlement (i.e., a special use permit or special exception) has been granted to a residentially zoned property.

#### Demolition to Historic Buildings in Historic Corridor and Overlay District

When demolition or relocation to any residential or non-residential historic building or structure in the Town’s Historic Corridor and Overlay District (HCOD) is proposed, Section 2.7 (Demolition permit review and approval) in Article 14A of the Purcellville Zoning Code will apply. The Zoning Ordinance requires that the proposed demolition or removal first be reviewed and approved by the Board of Architectural Review (BAR) or, on appeal, the Town Council. The property owner has a right to appeal the decision of Town Council to the Loudoun County Circuit Court.

In addition to, and simultaneous with, the owner’s pursuit of any appeal described above, the property owner may exercise his or her right to relocate or destroy a historic resource so long as all of the following requirements established under the Code of Virginia, Section 15.2-2306 have been satisfied:

- (i) The owner has applied to the governing body for the right to relocate or demolish the historic resource,
- (ii) If denied by the BAR, the owner has made a bona fide offer to sell the historic resource (and the land pertaining thereto) for the period of time specified below and at a price reasonably related to its fair market value,
- (iii) The owner extended the bona fide offer to the locality, or to any person, firm, corporation, government or agency of the locality,
- (iv) The bona fide offer does not result in an executed and binding purchase contract that assures the preservation of the historic resource, prior to the expiration of the applicable time period set forth in the time schedule below,
- (v) The time schedule for offers to sell shall be as follows:
  - a. three months when the offering price is less than \$25,000;
  - b. four months when the offering price is \$25,000 or more but less than \$40,000;
  - c. five months when the offering price is \$40,000 or more but less than \$55,000;
  - d. six months when the offering price is \$55,000 or more but less than \$75,000;
  - e. seven months when the offering price is \$75,000 or more but less than \$90,000; and
  - f. twelve months when the offering price is \$90,000 or more.

No offer to sell shall be required of the owner more than one year after a final decision by the governing body, but thereafter the owner may renew his request to the governing body to approve the razing or demolition of the historic landmark, building or structure.

### Proposed Zoning Code Text Amendment 2021-05

As discussed above, Recommendation No. 1 of the 2030 Purcellville Comprehensive Plan encourages the Town to consider amending the existing *historic zoning overlay district* [sic] to be more inclusive of all historically contributing structures in Purcellville and expand their recognition. Given this recommendation and the on-going loss of historic resources in town over the years, the Planning Commission initiated Zoning Code Text Amendment 2021-05 (“ZCTA 2021-05”) to incorporate all eligible and designated historic resources within the town’s corporate limits which are listed in the *National Register of Historic Places*<sup>1</sup> and the *Virginia Landmarks Register*<sup>2</sup> into Purcellville’s existing Historic Corridor Overlay District (“HCOD”). By doing so, it will add nearly 300 new parcels into the existing overlay district, some of which already have historic resources on them. It is important to realize that not

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<sup>1</sup> The historic resources in the *National Register of Historic Places* consist of the 1) Purcellville Historic District (originally consisting of 498 contributing resources), 2) Locust Grove; 3) the Tabernacle-Fireman’s Field; and, 4) the Purcellville Train Station.

<sup>2</sup> The Historic Resources listed in *Virginia Landmarks Register* consist of the 1) Purcellville Historic District, 2) the Tabernacle-Fireman’s Field; and, 3) the Purcellville Train Station.

every one of the nearly 300 parcels proposed for inclusion in the HCOD have a historic resource on it. In many instances, there are multiple, contiguous, parcels under one common ownership and they have been grouped together (as one collective entity) when there are one or more historic resources associated with a singular address and also associated with all of parcels under a common ownership. However, as discussed below, those individual lots without a historic resource on them are completely exempt from Article 14A as if they were not even proposed within the HCOD, unless subject to Sections 2.1(a) of Article 14A for non-residential uses adjacent to one of the street corridors in town.

The principle goal of including all of the Town's historic resources into the HCOD is so that any future demolition to any of these resources would be subject the demolition procedures contained Article 14A of the Purcellville Zoning Code, as discussed above. Therefore, any request to demolish a historic resource in the HCOD would require the review and approval of the BAR. Currently, all historic resources outside of the HCOD only require the administrative approval of a zoning permit application which is issued by town staff without any review or approval of the BAR. In addition, Article 14A also contains provisions to help maintain historic resources that are not under single-family, detached, residential use by requiring owners to keep their historic buildings, structures, and objects in good repair to prevent demolition by neglect. Demolition by neglect refers to when a building or structure is allowed to decay and potentially collapse because of an owner's willful decision or negligence not to maintain it. Under existing Article 14A, the Town may take enforcement action against any property owner who fails to maintain their historic resource in good repair after being notified by the Town and given ample opportunity to take correct steps.

Aside from enhancing the Town's process for demolitions to historic resources, the proposed inclusion of all remaining historic properties in Town into the HCOD will not carry any other significant zoning augmentations that would add to the existing, underling, zoning requirements already in place for those properties. While there are other proposed changes to Article 14A, these modifications are principally designed to provide clarification and greater detail that is currently lacking, vague or confusing concerning the various implementation provisions of Article 14A. It also provides voluntary opportunities for property owners to promote historic preservation if they desire to do so, but it is not required.

#### Summary of Proposed Text Changes to Article 14A (Historic Corridor and Overlay District)

The following represents a general summary of key changes proposed to each section of Article 14A that regulates the Historic Corridor Overlay District:

### Section 1 (Intent)

- 1) Changes the name of the existing *Historic Corridor Overlay District* (“HCOD”) to the *Historic Corridor and Overlay Zone* (“HC&OZ”) as the historic properties that would be added to the overlay would no longer form a single, contiguous, entity or district. This is a technical change.

### Section 2 (Applicability)

- 2) Adds administrative, legal, and technical clarifications to the existing code for easier interpretation and implementation.
- 3) Specifies that all contiguous lots that are associated with the same address under common ownership are treated as one entity within the overlay zone when a historic resource is identified on any contiguous lot.
- 4) Enables the Town to consider updates to the boundaries of the overlay zone to accurately reflect where new historic resources are located and where they have been lost.
- 5) Under Section 2.4 (Definitions), it deletes the definition of “structure” and replaces it with “resource” to be more inclusive of all forms of landmarks (i.e., buildings, structures, objects, sites, and historic districts (including contributors)). Additional definitions are also added to the code to include the terms “historic resources” and “historic district” for consistency in interpretation. These definitions are taken from National Register Bulletin 15, developed by the National Park Service decades ago. The definition of a “local landmark” has also been included using the protocol within National Register Bulletin 15. The guidelines within National Register 15 are used by all federal agencies, state governments and numerous local governments throughout the country for evaluating and designating historic resources.
- 6) Section 2.5 exempts all historic and non-historic single-family, detached, residential buildings and structures in residential use from the regulations of Article 14A, EXCEPT for demolitions. It also exempts any parcels/lots within the overlay zone that do not have a historic resource on it (i.e., a vacant lot or a parcel with a non-historic resource) unless it is contiguous to any of the streets identified in Section 2.2. Moreover, Section 2.5 (Exemptions) clarifies that interior alterations as well as maintenance and repair work to all buildings and structures are exempt from the provisions of Article 14A.
- 7) The demolition review criteria under Section 8.3 has been deleted and replaced with new demolition review criteria added to Section 2.7 for use by the Board of Architectural Review (“BAR”). The new demolition review criteria focuses on how the proposed demolition would impact the historic integrity of the site the resource came from as well

the surrounding properties and to any historic district the resource is located in. It also requires the BAR to consider the potential for a historic building or structures to be adaptively reused, including the potential for outside monetary funds or assistance to save a historic resource from demolition. However, the existing text retained in Section 2.7 makes it clear that a property owner has a right to ultimately demolish any historic resource on their property following the town's demolition process.

- 8) Additional text has been added to Section 2.9 of Article 14A to supplement the existing provisions to help prevent demolition by neglect to historic buildings and structures. It requires the owners of historic resources to keep them in good repair at all times. The new provisions add several additional environmental and material issues that can cause deterioration to an historic resource.

Sections 3 (Permitted Uses) and Section 4 (Area and bulk regulations; minimum yard and setback requirements; height requirements; landscaping and screening; preservation of natural features.

- 9) Adds administrative corrections and technical clarifications to the existing code for easier interpretation and implementation.

#### Section 5 (Nonconformities)

- 10) Adds administrative corrections and technical clarifications to the existing code for easier interpretation and implementation.
- 11) Clarifies under Section 5.2 that non-conforming structures also include buildings and objects and that if a non-conforming building, structure or object is a historic resource, it shall be subject to all applicable provisions of this article for clarity.

#### Section 6 (Administration)

- 12) Adds administrative corrections and technical clarifications to the existing code for easier interpretation and implementation.

#### Section 7 (Appeals)

- 13) Section 7 provides the ability for any resident in the town to appeal any decision of the Board of Architectural Review. The current ordinance does not have any provisions for resident appeals.

### Section 8 (Design Criteria)

- 14) Adds administrative corrections and technical clarifications to the existing code for easier interpretation and implementation.
- 15) Section 8.2 creates optional design guidelines to enable property owners to have the ability to voluntarily require the Board of Architectural Review to use the U.S. Secretary of the Interior's Standards and Guidelines to evaluate proposed changes to their historic buildings and structures instead of using the standard design guidelines/criteria that is not oriented toward historic preservation. The U.S. Secretary of the Interior's Standards and Guidelines were developed by the U.S. Park Service as philosophical approach about how to successfully preserve, rehabilitate, restore, and reconstruct historic buildings. Although the standards and guidelines are not proscriptive, they are commonly used throughout the country at the federal, state and local levels as a guideline to allow change to historic resources while preserving the historic integrity of the resource. The standards and guidelines are also commonly used to mitigate environmental impacts to historic resources through the National Environmental Protection Act (NEPA) as well as similar environmental polices used by other states.
- 16) Deletes the existing demolition permit criteria and replaces it with that proposed in Section 2.7, as discussed above in Item No. 6.

### Section 9 (Deviations from approved plans)

- 17) Make grammatical change to a single word (i.e., "article" to "Article").

### **CONCLUSIONS**

The Planning Commission's proposed modifications to Article 14A is for the purpose of following one the significant recommendations contained in the Town's 2030 Comprehensive Plan. It suggests expanding the Historic Corridor Overlay District for the purpose of recognizing and being more inclusive of all historic resources in Town. It would also attempt to provide some level of protection to these resources as they contribute to community's the sense of place and identity. The Commission believes the on-going demolition to historic resources outside of the current Historic Corridor Overlay District warrants prompt attention and mitigation.

Staff has responded to both residential and non-residential owners of historic properties who are concerned about how Zoning Code Text Amendment 2001-05 may affect their respective properties. Therefore, the following general conclusions should be used to

provide sense of orientation about what it fundamentally means to be included in the Historic Corridor Overlay District and subject to the existing and proposed changes to Article 14A:

#### Historic Properties in Single-Family, Detached, Residential Use

- Owners of historic and non-historic resources in single-family, detached, residential use, including accessory structures like a garage and shed, will continue to be exempted from obtaining a Certificate of Design Approval from the Board of Architectural Review for any interior or exterior construction or alternations (i.e., additions, repainting, new roof, windows, doors etc.) made to these buildings and structures.<sup>3</sup> It would be just as if they continued to be located outside the Historic Corridor and Overlay District. This provision is provided under Section 2.5 (Exemptions) of Article 14A that regulates the overlay district. Of course, certain changes (such as building additions) will still require a building permit from the County and the issuance of an over-the-counter zoning permit to verify compliance with building setbacks and to ensure all construction is outside of public rights-of-ways, including all sewer and utility easements.
- Any proposed demolition to a residential historic resource (including contributors to the Purcellville Historic District) must be reviewed and approved by the Purcellville Board of Architectural Review or the Town Council, on appeal through a Certificate of Design Approval. Properties in residential use outside of the current overlay district do not have this regulatory provision. Nevertheless, the Commonwealth of Virginia grants the right to any property owner to ultimately demolish a historic resource on their property. This is the most significant change to any historic resource in single-family, detached, residential use that is incorporated into the Historic Corridor Overlay District.
- The underlying zoning classification for the property on which the historic resource is located will not change. Building setbacks, lot coverage and other development requirements for the property's zoning classification will remain the same and be unaffected by being located in the Historic Corridor Overlay District.
- There are no changes proposed to the permitted land-uses for residential historic buildings and properties proposed for inclusion in the existing Historic Corridor Overlay District.
- Zoning Code Text Amendment 2021-05 does not add or delete any historic resources already in the Purcellville Historic District. Similarly, the Town cannot add or delete

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<sup>3</sup> Attached residential units or developments such as duplexes, townhomes, condos etc. are not exempt from the provisions of Section 2.5 of Article 14A. Only single-family, detached, buildings and structures in residential use are exempted.

properties from the Purcellville Historic District. The Historic District was added to the Virginia Landmarks Register in 2006 and National Register of Historic Places in 2007.

- The Historic Corridor Overlay District is not a historic resource ordinance and there are no existing or proposed regulations or restrictions that prevent the loss of historic integrity to a resource due to proposed modifications to any building, structure, or object within the overlay district.

#### Historic Properties in **Non-Single-Family, Detached, Residential Use**<sup>4</sup>

- Any proposed demolition to a **non-single family, detached, residential resource (including contributors to the Purcellville Historic District) must be reviewed and approved by the Purcellville Board of Architectural Review (“BAR”) or the Town Council, on appeal through a Certificate of Design Approval.**<sup>5</sup> These types of properties located outside of the current overlay district do not have this regulatory provision. However, the Commonwealth of Virginia grants the right to any property owner to ultimately demolish a historic resource on their property.
- Non-residentially zoned properties with on-site buildings and structures located outside of the Historic Corridor Overlay District are currently subject to the approval of the Board of Architectural Review for new construction or alternations to them, except for interior changes, minor exterior modifications and regular maintenance. This is because all non-residentially zoned properties in Town are located within the Architectural Control Overlay District under Section 54.61 of the Purcellville Town Code. While the Historic Corridor Overlay District also requires historic resources that are not in single-family, detached, residential use to also be subject to the Board of Architectural Review, both overlay districts require the approval of a Certificate of Design Approval by the Board of Architectural Review using the same design review criteria (see Section 54-62 of the Purcellville Town Code and Section 8 of Article 14A of the Purcellville Zoning Code). Therefore, there is no change to the regulatory process for alternations and additions to historic properties in non-single-family, detached residential use, by including them in the Historic Corridor Overlay District.
- All non-single-family, detached, residential properties not in residential use within the Historic Corridor and Overlay District must be kept in good repair at all times. This provision does not apply to similar buildings and structures located outside of

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<sup>4</sup> Non-single family, detached, residential uses/resources refer to all other forms of buildings that are not single-family, detached, residential buildings such as (but not limited to) commercial, industrial, office, townhomes, condos, duplexes, triplexes, apartment buildings etc.

the Historic Corridor Overlay District other for minimum public health and safety purposes. Keeping a historic resource in good repair at all times is intended to proactively prevent deterioration and vandalism to resources.

- The underlying zoning classification for the property on which the historic resource is located will not change. Building setbacks, lot coverage and other development requirements for the property's zoning classification will remain the same and be unaffected by being located in the Historic Corridor Overlay District.
- There are no proposed changes associated with permitted or unpermitted uses that may be located within any historic building or property included in the Historic Corridor Overlay District.

**ATTACHMENT(S):**

- 1) Proposed Modifications to Article 14A of the Purcellville Zoning Code.