AGENDA
PURCELLVILLE TOWN COUNCIL SPECIAL MEETING –
JOINT PUBLIC HEARINGS WITH PLANNING COMMISSION
NOVEMBER 3, 2016, 7:00 PM
TOWN HALL COUNCIL CHAMBERS

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1. **CALL TO ORDER OF SPECIAL MEETING** (Mayor Kwasi Fraser)

2. **PLEDGE OF ALLEGIANCE**

3. **JOINT PUBLIC HEARINGS WITH PLANNING COMMISSION**

   a. SUP16-03 – Mary's House of Hope* (Transitional Housing) (pgs. 3-21) (Motion pgs. 7-8)

   b. SUP16-04 – Makersmiths* (Public or Government Building, Facility, or Use Not Otherwise Defined) (pgs. 23-48) (Motion pgs. 28-29)

   c. OA16-02 – Zoning Ordinance Text Amendment to Require Disclosure of Real Parties in Interest* (pgs. 49-70) (Motion pg. 51)

4. **ADJOURNMENT**

*Roll call vote

IF YOU REQUIRE ANY TYPE OF REASONABLE ACCOMMODATION AS A RESULT OF PHYSICAL, SENSORY OR MENTAL DISABILITY IN ORDER TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT DIANA HAYS, TOWN CLERK, AT 540-338-7421. THREE DAYS NOTICE IS REQUESTED.

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STAFF REPORT
PUBLIC HEARING ITEM

Item # 3a

SUBJECT: SUP16-03 – Mary's House of Hope (Transitional Housing)

DATE OF MEETING: November 3, 2016

STAFF CONTACT: Daniel Galindo, AICP – Senior Planner

Application Information		
Applicant Vickie Koth The Good Shepherd Alliance, Inc. 20684 Ashburn Road Ashburn, VA 20147	**Property Owner** Town of Purcellville 221 South Nursery Avenue Purcellville, VA 20132	**Designer/Engineer** N/A
Submission Date October 6, 2016	**Planning Commission Public Hearing Date** November 3, 2016	**Town Council Public Hearing Date** November 3, 2016

Property Information				
PIN	**Tax Map**	**Address**	**Current Zoning**	**Acres**
489-38-4477-000	/44//43/////A/	781 South 20th Street	R-2	0.3471

Special Use Requested
SUP16-03
Transitional Housing

SUMMARY and RECOMMENDATIONS:

The Town of Purcellville and The Good Shepherd Alliance, Inc. have initiated an application, coded as SUP16-03 (Attachments 1 & 2), to authorize the special use of "transitional housing" on a Town-owned, 0.3471 acre parcel (displayed on Attachments 3 & 4) addressed as 781 South 20th Street, Purcellville, Virginia (the "Property"). The Property has a zoning district designation of R-2 (Single-Family Residential), and currently contains a building that was originally a single-family detached dwelling but is now occupied by Mary's House of Hope, a facility that is owned and operated by The Good Shepherd Alliance to provide transitional housing to single mothers. No additional development is currently proposed for the

Property. A joint public hearing on SUP16-03 is scheduled before the Planning Commission and Town Council on November 3, 2016.

The Town has yet to receive review comments from all referral agencies to which the SUP16-03 application was sent, so Town Staff recommends that the Planning Commission take no action until such time as all review comments have been received and fully considered. Town Council must defer any action on SUP16-03 until the Planning Commission has adopted a recommendation or until sufficient time has passed without a recommendation.

BACKGROUND:

Property Description

Special use permit application SUP16-03 involves a Town-owned, 0.3471 acre parcel addressed as 781 South 20th Street, Purcellville, Virginia (the "Property") and further identified in the Loudoun County land records as Tax Map Number /44//43/////A/ and Parcel Identification Number 489-38-4477-000. The Property, located southwest of the intersection of A Street and South 20th Street, is bounded to the east by the South 20th Street right-of-way and on the south, west and north by property owned by the Town of Purcellville which is subject to the SUP16-04 application. The Property has a planned land use designation of "Residential – 2 Dwelling Units Per Acre" and a zoning district designation of R-2 (Single-Family Residential).

SUP16-03 Description

The SUP16-03 application consists of the following documents:

1. A Completed Special Use Permit Application Form;
2. A Statement of Justification (including the Written Statement describing the proposed use);
3. A Special Use Permit Concept Plan;
4. An Aerial Image of the Property; and
5. A Traffic Impact Analysis Waiver Letter from the Director of Public Works.

SUP16-03 seeks authorization for the special use of "transitional housing" on the Property. The transitional housing use is defined by the *Zoning Ordinance for the Town of Purcellville, Virginia* as "a residential facility managed by a government or nonprofit agency which provides temporary accommodations to women, with or without children, for a period of up to two years, and which also may provide meals, counseling, and other appropriate program activities designed to facilitate independent living." The Property currently contains a building that was originally a single-family detached dwelling but is now occupied by Mary's

House of Hope which has provided transitional housing to single mothers and their children for the past nine years. No additional development or change in use is currently proposed by SUP16-03. The Good Shepherd Alliance plans to continue to use the Property for transitional housing, and approval of SUP16-03 would bring the existing use in to compliance with the Town's Zoning Ordinance.

Previous Action on Related Applications

In order to prepare the Property for sale, the Town took the following actions earlier this year:

1. RZ15-01, approved via Ordinance 16-04-05 on April 12, 2016, rezoned the Property from IP, Institutional and Public Use District to R-2, Single-Family Residential District;
2. CPA15-02, approved via Ordinance 16-04-05 on April 12, 2016, amended the comprehensive plan to designate the Property with a planned land use of Residential – 2 Dwelling Units Per Acre; and
3. OA15-04, approved via Ordinance 16-04-06 on April 12, 2016, amended the Zoning Ordinance to:
    - add transitional housing as a use listed in the Use Table and allow transitional housing as a use allowed by special use permit in the R-2 zoning district (i.e. shown as "SUP" in the Use Table);
    - add standards for the transitional housing use; and
    - add a definition for the transitional housing use.

The Town initiated these three applications in preparation for the possible sale of the Property to The Good Shepherd Alliance—the non-profit which operates Mary's House of Hope—and because the rezoning to R-2 allows the building on the Property to revert to its historic use as a single-family detached dwelling at a future time, if necessary. However, as noted above, no additional development or change in use is currently proposed.

ANALYSIS:

There are certain relevant factors that should be considered for any special use permit application. Article 8, Section 1.2 of the Zoning Ordinance of the Town of Purcellville, Virginia states:

> A special use permit should be approved only if it is listed as allowed by special use permit in the district regulations and only if it is found that the location is appropriate and not in conflict with the comprehensive plan, that the public health, safety, morals, and general welfare will not be adversely affected, that

adequate utilities and off-street parking facilities, if applicable, will be provided, and that necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values, and further provided that the additional standards of this article are complied with.

The requested use is listed in Article 4, Section 1.1 of the Zoning Ordinance as a use allowed by special use permit in the R-2 zoning district while the remaining factors to be considered are addressed in the applicant's Statement of Justification. Article 4, Section 1.2 of the Zoning Ordinance also requires transitional housing to "have a maximum occupancy of three adults and six children, excluding any resident staff persons" as well as be located "at least 250 feet from any existing residential dwelling." Mary's House of Hope complies with both standards.

Since being submitted, the SUP16-03 application was distributed for review by the Town and external review agencies; however, the Town has yet to receive responses from all referral agencies. At this time, Town Staff provisionally agrees with the contents of application, but this may change based on the contents of the review comments that have yet to be received. Overall, the requested special use complies with the comprehensive plan and satisfies the other issues listed for consideration in the Zoning Ordinance as demonstrated during its nine years in operation on the site. The necessary utilities are already in place on the site, and there should be no adverse impact to water quality or air quality. After reviewing SUP16-03, the Director of Public Works waived the requirement for a Traffic Impact Analysis, as permitted by Article 8, Section 1.4.C.6 of the Zoning Ordinance, in a letter dated October 5, 2016 (Attachment 5). The letter stated that vehicle traffic associated with Mary's House of Hope will "not generate additional significant vehicle trips during peak hours." Finally, as noted in the Background section above, approval of SUP16-03 would also bring Mary's House of Hope in to compliance with the Town's Zoning Ordinance.

BUDGET IMPACT:

There is no budget impact with this item.

FINDINGS:

1. The proposed use is allowed in the R-2 district by special use permit (Zoning Ordinance – Article 4, Section 1.1).
2. The proposed use complies with all applicable use standards (Zoning Ordinance – Article 4, Section 1.2).

3. The application complies with Article 8, Section 1 (Special Use Permit) of the Zoning Ordinance.
4. The proposed use advances the goals and strategies established in the *Purcellville, Virginia 2025 Comprehensive Plan*.

MOTIONS:

Recommended Motion – *Defer Action on SUP16-03*

I move that the Planning Commission move SUP16-03 to its meeting on November 17, 2016, for discussion and possible action.

Alternative Motions

Add as Action Item

I move that the Planning Commission amend the November 3, 2016 agenda to add SUP16-03 as an action item.

IF ADDED FOR ACTION:

Approval (as presented)

For the reasons stated in the staff report dated November 3, 2016, I move that the Purcellville Planning Commission forward to Town Council, with a recommendation to approve, SUP16-03 allowing transitional housing to be located at 781 South 20th Street as shown on the concept plan submitted with the application entitled "Concept Plan, 781 S. 20th Street, Purcellville, VA," dated October 4, 2016.

Conditional Approval

For the reasons stated in the staff report dated November 3, 2016, I move that the Purcellville Planning Commission forward to Town Council, with a recommendation to approve, SUP16-03 allowing transitional housing to be located at 781 South 20th Street with the following condition(s):

1. The use shall be developed as shown on the concept plan submitted with the application entitled "Concept Plan, 781 S. 20th Street, Purcellville, VA," dated October 4, 2016.
2.
3.

Disapproval

I move that the Purcellville Planning Commission forward to Town Council, with a recommendation to disapprove for the following reasons, SUP16-03 allowing transitional housing to be located at 781 South 20th Street:

1.
2.
3.

ATTACHMENTS:

1. SUP16-03 Application
2. SUP16-03 Written Statement and Statement of Justification
3. SUP16-03 Concept Plan
4. SUP16-03 Aerial Image of the Property
5. SUP16-03 Traffic Impact Analysis Waiver Letter

These materials and others pertaining to SUP16-03 can be found at:
http://purcellvilleva.gov/DocumentCenter/Index/256

ATTACHMENT 1

Town of Purcellville Virginia

Department of Community Development
221 S. Nursery Avenue, Purcellville, VA 20132
(540) 338-2304 Fax (540) 338-7460

Special Use Permit Application

SUP# 16-03

This application must be filled out in it entirety. An incomplete application form will result in rejection of the application prior to checklist review. Do not write in shaded areas.

A special use permit is requested for Transitional Housing
as per Article 4 **Section** 1 **Subsection** 1.1.

General Project Information:

1. Project Title: Mary's House of Hope
2. Location of Property: 781 South 20th Street, Purcellville
3. Property Owner: Town of Purcellville
4. Owner Address: 221 South Nursery Avenue, Purcellville
5. Owner Telephone: 540-338-7421 Fax: 540-338-6205 Email rlohr@purcellvilleva.gov
6. Applicant/Agent: Vickie Koth, Executive Director, The Good Shepherd Alliance
7. Agent Address: 20684 Ashburn Road, Ashburn, VA 20147
8. Agent Telephone: 703-887-5775 Fax: Email vkoth@goodshepherdalliance.org
9. Designer/Engineer: N/A
10. Designer Address:
11. Designer Telephone: Fax: Email

Correspondence to be sent to: X **Owner;** X **Agent;** ____ **Designer;** ____ **Other:** ____

12. Total Acreage of Parcel: .3471
13. Acreage to be Developed: N/A
14. Property Identification #(s): 489384477000
15. LC Tax Map #(s): /44//43/////A/
16. Current Zoning: R-2 Single Family Residential

SUP# 16-03

17. Current Use(s): Transitional Housing

18. Adjoining Property Uses(s): Public Use & Residential

19. Adjoining Property ID #s & owners: Please attach with a separate sheet provided below.

20. Related Applications: N/A

21. Pre-submission Meeting Date (if any) _____

Additional Submission Requirements:

[X] *A Statement of Justification and Explanation.* Applicant must file a statement in support of their request in accordance with the requirements of Article 8, Section 1.4.D of the Purcellville Zoning Ordinance. This statement should address all issues for consideration located within that section. In a separate statement, the proposal should be explained/outlined including details such as hours of operation.

[X] *A Concept Plan for the Property.* The Concept Plan does not need to be engineered; however; it must be sufficiently detailed to be judged for its superiority to other forms of development. See Article 8, Section 1.4.C for the requirements on the concept plan. If a concept plan is not applicable, please indicate with "n/a."

[X] *Traffic Study.* A traffic study is required for special use permits, unless waived by the Director of Public Works. The waiver or the traffic study must be provided at the time of submission. (Waiver requested)

[X] *Payment of Fee.* The fee for a special use permit application must be paid at the time of submission. FEES ARE NON-REFUNDABLE. N/A

Property Owner:

I have read this completed application, understand its intent and freely consent to its filing. The information provided is accurate and completed to the best of my knowledge and capabilities. I understand that the Town may deny, approve, or conditionally approve that for which I am applying. Furthermore, I grant permission to the Town or authorized government agents to enter the property and make such investigations or inspections and tests they deem necessary. I also understand that someone must be present at all public meetings to represent my application, and if no one is present, the item will be tabled to the next available meeting.

Robert W. Lohr Jr. — October 6, 2016

Owner's Signature Robert W. Lohr, Jr., Town Manager — Date

Required Materials (as applicable, completed by Town Staff):

For all special use permit applications:

☐ **Application (2 copies)** ☐ **Concept Plan (12 folded Copies)** ☐ **Required Fees(s)**

☐ **Completed Checklist** ☐ **Statements of Justification & Explanation** ☐ **Traffic Study or waiver of study**

Application Complete _____ Fee $_____ Paid _____ Planning Initials _____

Taxes Paid _____ Finance Initials _____

Project Manager Assigned _____

File Number _____ Approved On: _____ Valid Until: _____

Ordinance/Resolution Number(s): _____

SUP# 16-03

Special Use Permit Application – Adjoining Property Owner Information Sheet:

The following is a list of the adjoining property owners for the property located at:

781 South 20th Street, Purcellville

(Address of proposed special use permit request)

Please Note: Adjoining properties are any parcel of land sharing a common boundary with the property requesting a special use permit, including any properties located across an adjoining right of way. Attach additional sheets as needed.

Property Owner(s): Town of Purcellville	*Loudoun County PIN#* 489281645
Address: 221 South Nursery Avenue, Purcellville, VA 20132	

Property Owner(s): Valley Springs HOA	*Loudoun County PIN#* 489386855
Address: PO Box 2453, Purcellville, VA 20134-2453	

Property Owner(s): Valley Springs LLC	*Loudoun County PIN#* 489299263001
Address: 505 Huntmar Park Drive, Suite 245, Herndon, VA 20170-5169	

Property Owner(s): Balagurchik, Nicholas Jr & Frances	*Loudoun County PIN#* 489384947
Address: 17760 Telegraph Springs Road, Purcellville, VA 20132-3148	

Property Owner(s): Locust Grove Homeowners Association	*Loudoun County PIN#* 489366755
Address: c/o Bradley Mason Jr, R/A, 7010 Little River Turnpike, Suite 270, Annandale, VA 22003-3249	

Property Owner(s):	*Loudoun County PIN#*
Address:	

Minimum Submission Standards Checklist - Special Use Permit:

This checklist must be submitted with the application or the SUP application will be rejected.
These are the minimum requirements for acceptance of a submission, other ordinance requirements apply:

Applicant	Town Staff	Minimum Standard
		Application Materials
✓		2 copies of completed application form (1 original and 1 copy)
✓		Completed Minimum Submission Standards Checklist
✓		12 folded copies of the Concept Plan on paper no smaller than 11"x17" **PLEASE NOTE:** Although it is unnecessary for a concept plan to involve the preparation of engineered documents, the concept plan must be sufficiently detailed to be judged for its superiority to other forms of development.
N/A		Application fee(s)
✓		Statement of Justification **addressing all 13 issues** for consideration found in Article 8, Section 1.4.D of the Purcellville Zoning Ordinance
✓		Written statement - describing the proposed use in sufficient detail to provide the Town with adequate knowledge on which to determine if the proposed special use is a development of superior quality. The written statement shall also provide the type and hours of operation.
✓		Traffic Analysis or waiver of traffic analysis from Director of Public Works
		Concept Plan Requirements
✓		Plans on 11"x17" paper or larger
✓		Sheets are numbered & scale is indicated (if scaled)
✓		Boundaries of the property and total area of the property in square feet and acres
✓		General location, size (in square feet), and use of all proposed structures
✓		General location of storm water management facilities
✓		General location of open space and/or landscaping areas
✓		General location of proposed improvements such as but not limited to the general placement of sidewalks or trail facilities, the general location of proposed traffic improvements, and/or the general location of proposed public facilities
✓		General location of proposed parking areas, entrances onto rights of way, storage areas, display areas, recreational areas, and required buffer yards
✓		General location and size of proposed rights of way
✓		Location and size of existing public rights of way

Please Note:
The above information is a minimum standard for submission. If any of these items are not applicable to your project, please indicate with an "n/a" in the checkbox next to the item. The concept plan does not require preparation by a certified engineer unless specifically requested during review by the Town. Additional requirements may apply, please reference the Zoning Ordinance for any additional standards for your project.

Acknowledgement:
I have read the above minimum submission requirements, and by signing the following statement of acknowledgement, do believe that the special use permit application I have submitted to the Town of Purcellville is substantially complete. I also acknowledge that there are additional requirements which are not included on the minimum submission requirements which shall be enforced. By signing, I also understand that Town Staff will issue additional comments on the application and that the presence of all required information does not guarantee approval, and if during the review of this application by Town Staff it is determined that my application is actually incomplete, it can be rejected and returned.

Robert W. Lohr Jr. — October 6, 2016

Signed, Property Owner Robert W. Lohr, Jr., Town Manager — Date

Signed, Preparing Designer/Engineer/Agent — Date

Special Use Permit Application
The Good Shepherd Alliance – Mary's House of Hope
781 South 20th Street, Purcellville, VA

Current Property Owner: Town of Purcellville
Tax Map: /44//43/////A/
Parcel ID: 489-38-4477

Written Statement:

The Town of Purcellville and The Good Shepherd Alliance are requesting a Special Use Permit as part of the proposed sale of the property for the purpose of continued use of the dwelling as a transitional home for the safe refuge of at risk single mothers and their children.

The Town originally acquired this property as part of a larger parcel in 1973. The dwelling was used as a single family tenant home until May 2005. At that time, The Good Shepherd Alliance entered into a lease with the Town and completed significant renovations to the old tenant house. Since 2007, the home has been utilized to provide shelter, counseling and support to homeless single mothers and their children. This program has assisted many women and children transition from homelessness to a stable living situation. With this support and assistance, the occupants have also been able to develop and maintain stability in employment as well as parenting skills.

The maximum occupancy of the home never exceeds 3 mothers with their children (under the age of 13) and 1 adult home monitor. The prospective tenants are screened and criminal background checks are completed. This is a 24-hour operation.

The Good Shepherd Alliance has maintained the property in an exemplary manner, caring for and preserving the house and property which they have improved by the addition of a paved parking area and playground. They have also been an excellent community partner and neighbor. The Town has never received any complaints from surrounding property owners.

The property was rezoned by the Town from IP to R-2 (single-family residential) to allow for residential use. In order to continue use as transitional housing, and as part of the sale of this property to The Good Shepherd Alliance, the Town is seeking a Special Use Permit.

The continued use in the capacity stated above, is consistent with a residential district and compatible with general residential surroundings.

Statement of Justification:

1) *Whether the proposed application is consistent with the comprehensive plan.* & 2) *Whether the proposed special use at the specified location with contribute to or promote the welfare and convenience of the public.*

   While the comprehensive plan is intended to provide a framework for the management of growth, public needs and quality of life, it also speaks to small town character and sense of place. The Good Shepherd Alliance made a financial and community commitment over 11

years ago to refurbish an otherwise dilapidated structure so that they could provide shelter and support to women and children in need. This type of aid and assistance is critical to society and our community. While affluence in Loudoun County abounds, there are so many in our greater community in need.

3) *Whether the proposed use is compatible with other existing or proposed uses in the neighborhood, and adjacent parcels.*
The adjacent parcels are primarily public use and residential. The proposed continued use is residential in nature and is compatible with other uses in this neighborhood.

4) *Whether the level and impact of any noise or odor emanating from the site, including that generated by the proposed special use, negatively impacts the uses in the immediate area.*
Over the last 9 years of the use as transitional housing, there has not been any noise or odor associated with the site that would differ from that of any other residential property atmosphere in the community.

5) *Whether the proposed special use will result in the preservation or damage of any existing habitats, vegetation, topographic or physical, natural, scenic, archeological, or historical feature of significant importance.*
There are no features of significant importance on the site, and no changes are proposed for the site as part of this application.

6) *Whether the proposed special use will impact existing water quality or air quality.*
No impacts are expected that would differ from that of any other residential property atmosphere in the community.

7) *Whether the traffic generated by the proposed use will be adequately and safely served by roads, pedestrian connections, and other transportation services.*
There has been no change in the associated vehicle traffic over the last 9 years of use nor is it expected to increase. The existing roads safely and effectively serve this use. Unfortunately, at this time, there are no pedestrian connections or other mass transit services available at the site although they are in close proximity to the north of the property.

8) *Whether the proposed use will negatively impact orderly and safe road development and transportation in accordance with the comprehensive plan and all relevant transportation and corridor plans.*
There should be no negative impacts.

9) *Whether the proposed use will be served adequately by essential public facilities and services.*
Existing facilities and services have been and will continue to be more than adequate.

10) *Whether, in the case of existing structures to be converted to uses requiring a special use permit, the existing structures can be converted in such a way that retains the character of the neighborhood in which the existing structures are located, especially when an application seeks to convert a building of historic significance.*
There will be no change to the structure.

11) *Whether the proposed special use contributes to the economic development needs of the town.*
Not applicable to this use.

12) *Whether adequate on and off site infrastructure is available.*
All infrastructure is adequate.

13) *Whether the proposed special use illustrates sufficient measure to mitigate the impact of construction traffic on existing neighborhoods and schools.*
Not applicable since there will be no construction.

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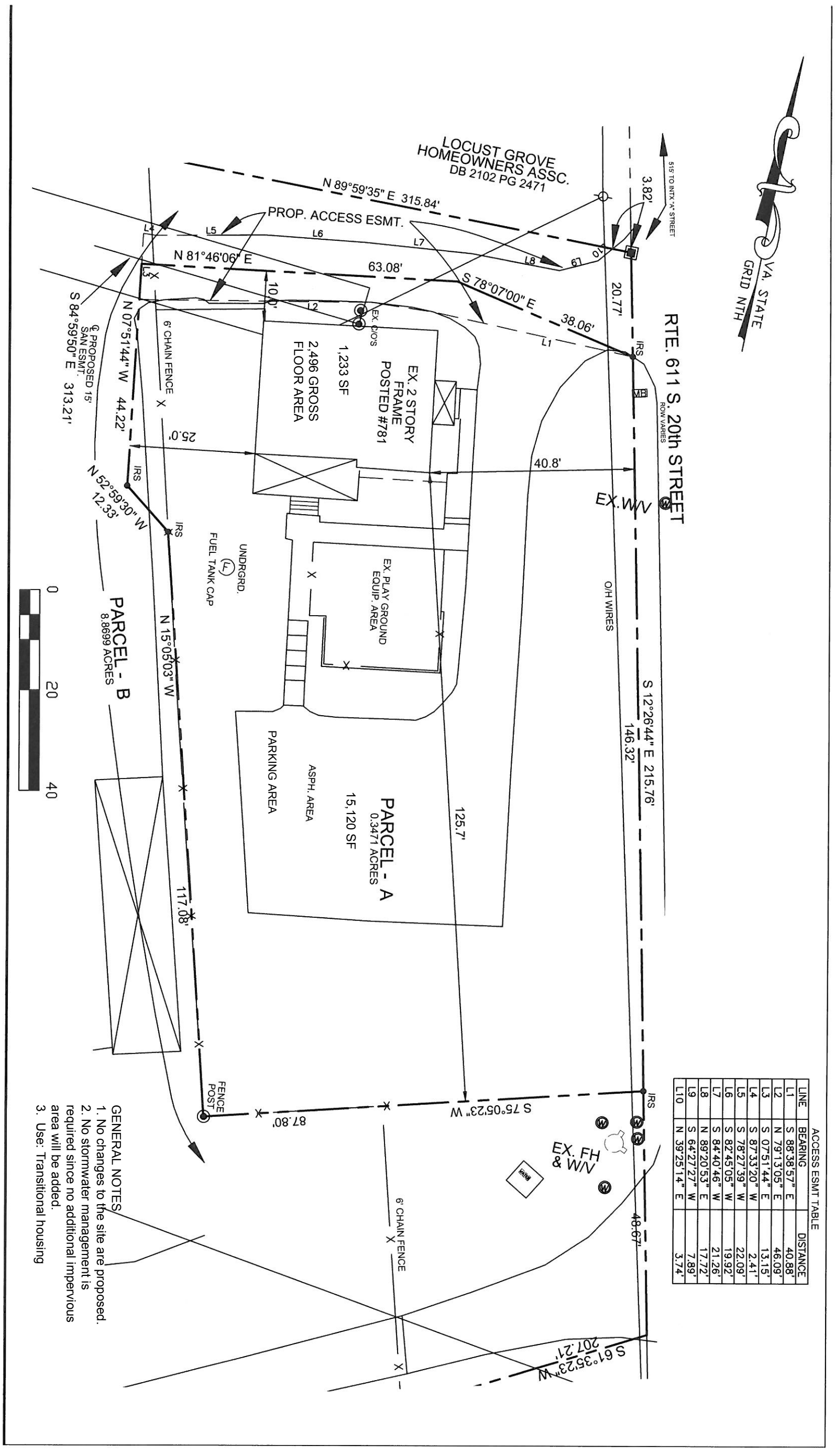
ATTACHMENT 3



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ATTACHMENT 4

781 South 20th Street

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ATTACHMENT 5

Town Manager
Robert W. Lohr, Jr.

Assistant Town Manager
Daniel C. Davis

221 S. Nursery Avenue
Purcellville, VA 20132
(540) 338-7421
www.purcellvilleva.gov

Town of Purcellville Virginia

Town Attorney
Sally G. Hankins

Chief of Police
Cynthia A. McAlister

Department Directors
Elizabeth Krens, Finance
Alex Vanegas, Public Works
Patrick Sullivan, Community Development
Shannon Bohince, Information Technology
Hooper McCann, Administration

October 5, 2016

Patrick Sullivan, AICP.
Director of Community Development
Town of Purcellville
221 S. Nursery Avenue
Purcellville, VA. 20132

RE: SUP Applications for Mary's House of Hope

Mr. Sullivan,

Staff has reviewed the information regarding the proposed Special Use Permit (SUP) Application for Mary's House of Hope with respect to potential traffic impacts to S. 20th Street. Based on the facts provided, I do hereby waive the traffic impact analysis (TIA) requirement for this SUP. This decision is grounded in the following observations. First, this facility has been in operation for the last 9 years as a dwelling unit for the sole purpose of providing safe refuge for single mothers and children and in accordance with the lease agreement whereby the maximum occupancy of the home never exceeds 3 mothers and 1 adult home monitor. Second, the associated vehicle traffic has not changed over the last 9 years and is expected to continue to be compatible with a single family dwelling thereby not generating additional significant vehicle trips during peak hours. Please let me know if you have any questions.

Sincerely,

Alex Vanegas, CPM
Director of Public Works

cc: Robert W. Lohr, Jr. Town Manager
Sally Hankins, Town Attorney

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STAFF REPORT
PUBLIC HEARING ITEM

Item # 3b

SUBJECT: SUP16-04 – Makersmiths (Public or Government Building, Facility, or Use Not Otherwise Defined)

DATE OF MEETING: November 3, 2016

STAFF CONTACT: Daniel Galindo, AICP – Senior Planner

Application Information		
Applicant Thomas Hill 17256 Pickwick Drive Purcellville, VA 20132	**Property Owner** Town of Purcellville 221 South Nursery Avenue Purcellville, VA 20132	**Designer/Engineer** N/A
Submission Date October 7, 2016	**Planning Commission Public Hearing Date** November 3, 2016	**Town Council Public Hearing Date** November 3, 2016

Property Information				
PIN	**Tax Map**	**Address**	**Current Zoning**	**Acres**
489-28-1645-000	/44//43/////B/	785 & 787 South 20th Street	IP	8.8699

Special Use Requested
SUP16-04
Public or Government Building, Facility, or Use Not Otherwise Defined (for a "makerspace")

SUMMARY and RECOMMENDATIONS:

The Town of Purcellville and Thomas Hill (on behalf of Makersmiths Inc.) have initiated an application, coded as SUP16-04 (Attachments 1 & 2), to authorize the special use of "public or government building, facility, or use not otherwise defined" on a Town-owned, 8.8699 acre parcel (displayed on Attachment 3) addressed as 785 South 20th Street and 787 South 20th Street, Purcellville, Virginia (the "Property"). The Property has a zoning district designation of IP (Institutional and Public Use), and contains buildings and structures previously used by the Town for vehicle storage and water treatment. These existing facilities and surrounding outdoor area would be repurposed by Makersmiths Inc. to conduct "makerspace" activities; no additional development is currently proposed for the Property.

A joint public hearing on SUP16-04 is scheduled before the Planning Commission and Town Council on November 3, 2016.

The Town has yet to receive review comments from all referral agencies to which the SUP16-04 application was sent, so Town Staff recommends that the Planning Commission take no action until such time as all review comments have been received and fully considered. Town Council must defer any action on SUP16-04 until the Planning Commission has adopted a recommendation or until sufficient time has passed without a recommendation.

BACKGROUND:

Property Description

Special use permit application SUP16-04 involves a Town-owned, 8.8699 acre parcel addressed as 785 South 20th Street and 787 South 20th Street, Purcellville, Virginia (the "Property"), located southwest of the intersection of A Street and South 20th Street, and further identified in the Loudoun County land records as Tax Map Number /44//43/////B/ and Parcel Identification Number 489-28-1645-000. The Property is bounded to the east by the South 20th Street right-of-way and the 781 South 20th Street property which is subject to the SUP16-03 application, on the south by property owned by the Town of Purcellville, on the west by property owned by the Town of Purcellville as well as residential lots and an open space parcel owned by the Hirst Farm Homeowners Association, and on the north by an open space parcel owned by the Locust Grove Homeowners Association. The Property has a zoning district designation of IP (Institutional and Public Use) and three planned land use designations. A rectangular projection on the north of the Property is designated "Private Open Space," the remainder of the northern half of the Property (i.e. the area where structures are present that is generally wider from west to east than the southern portion of the Property) is designated "Institutional/Government," and the remainder of the southern half of the Property (i.e. the area where no structures are present that is generally narrower from west to east than the northern portion of the Property) is designated "Public Open Space."

SUP16-04 Description

The SUP16-04 application consists of the following documents:

1. A Completed Special Use Permit Application Form;
2. A Statement of Justification (including the Written Statement describing the proposed use);
3. A Special Use Permit Concept Plan; and
4. A Traffic Impact Analysis Waiver Letter from the Director of Public Works.

SUP16-04 seeks authorization for the special use of "public or government building, facility, or use not otherwise defined" on the Property. This use is defined by the *Zoning Ordinance for the Town of Purcellville, Virginia* as "any facility owned or operated by a public utility or an agency of local, regional, state or federal government and not otherwise defined within this article." The Property currently contains buildings and structures previously used by the Town for vehicle storage and water treatment, and approval of SUP16-04 would specifically allow Makersmiths Inc. to conduct "makerspace" activities on the Property by repurposing these existing facilities and the surrounding outdoor area. No additional development is currently proposed for the Property.

A "makerspace" is a workshop that allows members of the community to work with and learn about old and new technologies where a wide range of activities may occur. Possible "makerspace" activities on the Property may include but are not limited to: woodworking, metalworking, electronics and robotics fabrication, classroom instruction, computer coding, 3-D printing, and crafting.

Previous Consideration

At the Town Council meeting on January 12, 2016, Mayor Fraser first discussed a proposal submitted by Makersmiths to use the Town's former maintenance facility at the Property for a makerspace, and Patrick Scannell of Makersmiths gave a presentation to Council about the proposal at its February 9, 2016 meeting. In the spring, Makersmiths submitted a Letter of Intent with a lease proposal for the Property, and at its April 12, 2016 meeting, Town Council directed Town Staff to move forward with the proposal including beginning the necessary zoning process and the process to enter into a lease arrangement with Makersmiths. Council also agreed with the Town Manager's suggestion that the Planning Commission be consulted and asked to recommend the best option to pursue that would allow Makersmiths to operate in compliance with the Town's Zoning Ordinance.

At the Planning Commission's meeting on May 5, 2016, the Commission considered the zoning issues presented by Makersmiths. The staff report noted that the various functions of a makerspace were not clearly encapsulated by any existing use allowed by the Zoning Ordinance (with one possible exception). For the Commission's consideration, the staff report included four primary options for further action that would allow Makersmiths to operate in compliance with the Zoning Ordinance at the proposed location of the former Maintenance Building:

1. Rezone the Property to CM-1, Local Service Industrial or M-1, Limited Industrial;

2. Amend the text of the Zoning Ordinance to allow a newly created use in the IP district that would be defined broadly enough to fit a makerspace but narrowly enough to avoid any use that would be a significant departure from the public and institutional uses allowed in the district (in conjunction with standards for the new use, if needed);
3. Rezone the Property to another zoning district in conjunction with a text amendment that would allow a makerspace in that district; or
4. Submit a special use permit application utilizing the "public or government building, facility, or use not otherwise defined" land use allowed in the IP zoning district by special use permit.

Staff recommended the second option and specifically recommended creating a new land use (and accompanying definition) that would be allowed in the IP district by special use permit. This option would have resulted in the creation of a long-term solution. Instead, the Planning Commission recommended the fourth option which has resulted in the submission of SUP16-04. The downside of this option is that it only results in a short-term fix because the use is only valid on a publicly-owned property. If Makersmiths or some other private or non-profit entity were to buy the property in the future, the Makerspace would become a nonconforming use that could not be expanded.

ANALYSIS:

There are certain relevant factors that should be considered for any special use permit application. Article 8, Section 1.2 of the Zoning Ordinance of the Town of Purcellville, Virginia states:

> A special use permit should be approved only if it is listed as allowed by special use permit in the district regulations and only if it is found that the location is appropriate and not in conflict with the comprehensive plan, that the public health, safety, morals, and general welfare will not be adversely affected, that adequate utilities and off-street parking facilities, if applicable, will be provided, and that necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values, and further provided that the additional standards of this article are complied with.

The requested use is listed in Article 4, Section 1.1 of the Zoning Ordinance as a use allowed by special use permit in the IP zoning district while the remaining factors to be considered are addressed in the applicant's Statement of Justification.

Since being submitted, the SUP16-04 application was distributed for review by the Town and external review agencies; however, the Town has yet to receive responses from all referral agencies. Although Staff's opinion is subject to change based on the contents of the review comments that have yet to be received, Town Staff largely agrees with the contents of application at this time, but a few possible concerns are noted below. Overall, the requested special use complies with the comprehensive plan and generally satisfies the other issues listed for consideration in the Zoning Ordinance. The necessary utilities are already in place on the site, and there should be no adverse impact to water quality or air quality. After reviewing SUP16-04, the Director of Public Works waived the requirement for a Traffic Impact Analysis, as permitted by Article 8, Section 1.4.C.6 of the Zoning Ordinance, in a letter dated October 5, 2016 (Attachment 4). The letter stated that "it does not appear that the facility will generate significant peak hour trips" which he calculated at a total of 20 or less.

However, the primary concern with the makerspace use has always been the element of uncertainty caused by the broad mix of possible activities that may or may not be conducted. As noted in an email from applicant Thomas ("Tom") Hill that the Town Manager forwarded to the Planning Commission and Town Council on April 22, 2016 (Attachment 5), Makersmiths has a mission of "providing knowledge, space, equipment, community & programs to enable you to learn, design, make, launch, work and play." This mission is carried out in a makerspace which jointly functions as a fabrication workshop, classroom, and meeting area utilized by the members of the organization. While a number of anticipated and possible activities are listed on the first two pages of the Statement of Justification, dated September 28, 2016, the April 22nd email also noted that "equipment changes frequently." Such change is not necessarily good or bad, but from a zoning perspective, it causes uncertainty which can lead to unintended issues.

For example, a Makersmiths representative that spoke at a Town Council meeting in the spring mentioned the possibility of a community garden on the site. This led to confusion because Town Staff and some members of Council did not consider that to be part of a makerspace as we understood it. Additionally, gardening on portions of the Property could pose dangers to human health. The portion of the Property shown as an "Area of Remediation" on the concept plan is subject to restrictive covenants in order to protect human health and the environment. Specifically, the groundwater in this area shall not be used for any purpose other than environmental monitoring and testing, and the area shall not be used for residential purposes or for children's daycare facilities, schools or playground purposes. Thankfully this idea came up during initial discussions of the project rather than Makersmiths simply starting a community garden in a couple of years without consulting the Town.

While the Town does not desire to be unrealistically strict, this serves as a useful example of the issues that can arise from otherwise good intentions. Therefore, it will be in the best interest of all parties involved to ensure that everyone is in agreement regarding the general parameters of what kinds of activities would be allowed on the site (and possibly the locations where such activities may be conducted) if SUP16-04 were to be approved. The Planning Commission and Town Council should consider what conditions, if any, should be placed on the use to protect the health, safety and general welfare of the Town and its citizens.

During consideration of Makersmiths' proposal, Town Staff has previously expressed concerns about operating hours and noise, so Makersmiths has proposed possible solutions to address these community concerns. Although it desires for the makerspace to be open 24 hours a day, Makersmiths has proposed quiet hours from 10 PM – 8 AM. Similarly, the third page of the Statement of Justification states that "Makersmiths believes that there will be only occasional daytime noise emanating from the site, and no odors from the site," yet the organization has still proposed to "[maintain] a 'hotline' whereby residents can report any disturbing noise or odor, so they can be immediately ameliorated" on the fourth page.

BUDGET IMPACT:

There is no budget impact with this item.

FINDINGS:

1. The proposed use is allowed in the IP district by special use permit (Zoning Ordinance – Article 4, Section 1.1).
2. The application complies with Article 8, Section 1 (Special Use Permit) of the Zoning Ordinance.
3. The proposed use advances the goals and strategies established in the *Purcellville, Virginia 2025 Comprehensive Plan*.

MOTIONS:

Recommended Motion – *Defer Action on SUP16-04*

I move that the Planning Commission move SUP16-04 to its meeting on November 17, 2016, for discussion and possible action.

Alternative Motions

Add as Action Item

I move that the Planning Commission amend the November 3, 2016 agenda to add SUP16-04 as an action item.

IF ADDED FOR ACTION:

Approval (as presented)

For the reasons stated in the staff report dated November 3, 2016, I move that the Purcellville Planning Commission forward to Town Council, with a recommendation to approve, SUP16-04 allowing a "makerspace" as a "public or government building, facility, or use not otherwise defined" to be located at 785 and 787 South 20th Street as shown on the concept plan submitted with the application entitled "Concept Plan, 785 S. 20th Street, Purcellville, VA," dated October 4, 2016.

Conditional Approval

For the reasons stated in the staff report dated November 3, 2016, I move that the Purcellville Planning Commission forward to Town Council, with a recommendation to approve, SUP16-04 allowing a "makerspace" as a "public or government building, facility, or use not otherwise defined" to be located at 785 and 787 South 20th Street with the following condition(s):

1. The use shall be developed as shown on the concept plan submitted with the application entitled "Concept Plan, 785 S. 20th Street, Purcellville, VA," dated October 4, 2016.
2.
3.

Disapproval

I move that the Purcellville Planning Commission forward to Town Council, with a recommendation to disapprove for the following reasons, SUP16-04 allowing a "makerspace" as a "public or government building, facility, or use not otherwise defined" to be located at 785 and 787 South 20th Street:

1.
2.
3.

ATTACHMENTS:

1. SUP16-04 Application

2. SUP16-04 Written Statement and Statement of Justification
3. SUP16-04 Concept Plan
4. SUP16-04 Traffic Impact Analysis Waiver Letter
5. Email from Tom Hill forwarded by Rob Lohr to the Planning Commission and Town Council on April 22nd

These materials and others pertaining to SUP16-04 can be found at:
http://purcellvilleva.gov/DocumentCenter/Index/257

Town of Purcellville Virginia

Department of Community Development
221 S. Nursery Avenue, Purcellville, VA 20132
(540) 338-2304 Fax (540) 338-7460

Special Use Permit Application

SUP# 16-04

This application must be filled out in it entirety. An incomplete application form will result in rejection of the application prior to checklist review. Do not write in shaded areas.

A special use permit is requested for Public or government building, facility, or use not otherwise defined **as per Article** 4 **Section** 1 **Subsection** 1.1.

General Project Information:

1. Project Title: Makersmiths - Purcellville
2. Location of Property: 785 & 787 South 20th Street, Purcellville
3. Property Owner: Town of Purcellville
4. Owner Address: 221 South Nursery Avenue, Purcellville
5. Owner Telephone: 540-338-7421 Fax: 540-338-6205 Email rlohr@purcellvilleva.gov
6. Applicant/Agent: Thomas Hill
7. Agent Address: 17256 Pickwick Dr., Purcellville, VA 20132
8. Agent Telephone: 301-928-0728 Fax: ____ Email hillkid@earthlink.net
9. Designer/Engineer: N/A
10. Designer Address: ____
11. Designer Telephone: ____ Fax: ____ Email ____

Correspondence to be sent to: X **Owner;** X **Agent;** ____ **Designer;** ____ **Other:** ____

12. Total Acreage of Parcel: 8.87
13. Acreage to be Developed: N/A
14. Property Identification #(s): 489281645000
15. LC Tax Map #(s): /44//43/////B/
16. Current Zoning: IP - Industrial and Public Use

SUP# 16-04

17. Current Use(s): Public Use

18. Adjoining Property Uses(s): Public Use & Residential

19. Adjoining Property ID #s & owners: Please attach with a separate sheet provided below.

20. Related Applications: N/A

21. Pre-submission Meeting Date (if any) _____

Additional Submission Requirements:

☒ *A Statement of Justification and Explanation.* Applicant must file a statement in support of their request in accordance with the requirements of Article 8, Section 1.4.D of the Purcellville Zoning Ordinance. This statement should address all issues for consideration located within that section. In a separate statement, the proposal should be explained/outlined including details such as hours of operation.

☒ *A Concept Plan for the Property.* The Concept Plan does not need to be engineered; however; it must be sufficiently detailed to be judged for its superiority to other forms of development. See Article 8, Section 1.4.C for the requirements on the concept plan. If a concept plan is not applicable, please indicate with "n/a."

☒ *Traffic Study.* A traffic study is required for special use permits, unless waived by the Director of Public Works. The waiver or the traffic study must be provided at the time of submission. (Waiver requested)

☒ *Payment of Fee.* The fee for a special use permit application must be paid at the time of submission. FEES ARE NON-REFUNDABLE. N/A

Property Owner:

I have read this completed application, understand its intent and freely consent to its filing. The information provided is accurate and completed to the best of my knowledge and capabilities. I understand that the Town may deny, approve, or conditionally approve that for which I am applying. Furthermore, I grant permission to the Town or authorized government agents to enter the property and make such investigations or inspections and tests they deem necessary. I also understand that someone must be present at all public meetings to represent my application, and if no one is present, the item will be tabled to the next available meeting.

Robert W. Lohr, Jr. — October 7, 2016

Owner's Signature Robert W. Lohr, Jr., Town Manager — Date

Required Materials (as applicable, completed by Town Staff):

For all special use permit applications:

☐ **Application (2 copies)** ☐ **Concept Plan (12 folded Copies)** ☐ **Required Fees(s)**

☐ **Completed Checklist** ☐ **Statements of Justification & Explanation** ☐ **Traffic Study or waiver of study**

Application Complete _____ Fee $_____ Paid _____ Planning Initials _____

Taxes Paid _____ Finance Initials _____

Project Manager Assigned _____

File Number _____ Approved On: _____ Valid Until: _____

Ordinance/Resolution Number(s): _____

SUP# 16-04

Special Use Permit Application – Adjoining Property Owner Information Sheet:

The following is a list of the adjoining property owners for the property located at:

785 & 787 South 20th Street, Purcellville

(Address of proposed special use permit request)

Please Note: Adjoining properties are any parcel of land sharing a common boundary with the property requesting a special use permit, including any properties located across an adjoining right of way. Attach additional sheets as needed.

Property Owner(s): Town of Purcellville	*Loudoun County PIN#* 489384477 and 489182311
Address: 221 South Nursery Avenue, Purcellville, VA 20132	

Property Owner(s): Valley Springs HOA	*Loudoun County PIN#* 489386855
Address: PO Box 2453, Purcellville, VA 20134-2453	

Property Owner(s): Valley Springs LLC	*Loudoun County PIN#* 489299263
Address: 505 Huntmar Park Drive, Suite 245, Herndon, VA 20170-5169	

Property Owner(s): Balagurchik, Nicholas Jr & Frances	*Loudoun County PIN#* 489384947
Address: 17760 Telegraph Springs Road, Purcellville, VA 20132-3148	

Property Owner(s): Locust Grove Homeowners Association	*Loudoun County PIN#* 489366755
Address: c/o Bradley Mason Jr, R/A, 7010 Little River Turnpike, Suite 270, Annandale, VA 22003-3249	

Property Owner(s): Hirst Farm Homeowners Association	*Loudoun County PIN#* 489376475
Address: c/o Stephens & Co, PO Box 1177, Leesburg, VA 20177-1177	

SUP#16-04

Property Owner(s): Newton, Kristy L & William Reynolds	*Loudoun County PIN#* 489278968
Address: 225 Overridge Court, Purcellville, VA 20132-7229	

Property Owner(s): Aramayo, Bonnie S	*Loudoun County PIN#* 489279557
Address: 224 Overridge Court, Purcellville, VA 20132-7229	

Property Owner(s): Geng, Qian & Guangtu Gao	*Loudoun County PIN#* 489279247
Address: 220 Overridge Court, Purcellville, VA 20132-7229	

Property Owner(s):	*Loudoun County PIN#*
Address:	

Property Owner(s):	*Loudoun County PIN#*
Address:	

Property Owner(s):	*Loudoun County PIN#*
Address:	

Property Owner(s):	*Loudoun County PIN#*
Address:	

Property Owner(s):	*Loudoun County PIN#*
Address:	

Minimum Submission Standards Checklist - Special Use Permit:

This checklist must be submitted with the application or the SUP application will be rejected.
These are the minimum requirements for acceptance of a submission, other ordinance requirements apply:

Applicant	Town Staff	Minimum Standard
		Application Materials
✓		2 copies of completed application form (1 original and 1 copy)
✓		Completed Minimum Submission Standards Checklist
✓		12 folded copies of the Concept Plan on paper no smaller than 11"x17" **PLEASE NOTE:** Although it is unnecessary for a concept plan to involve the preparation of engineered documents, the concept plan must be sufficiently detailed to be judged for its superiority to other forms of development.
N/A		Application fee(s)
✓		Statement of Justification **addressing all 13 issues** for consideration found in Article 8, Section 1.4.D of the Purcellville Zoning Ordinance
✓		Written statement - describing the proposed use in sufficient detail to provide the Town with adequate knowledge on which to determine if the proposed special use is a development of superior quality. The written statement shall also provide the type and hours of operation.
✓		Traffic Analysis or waiver of traffic analysis from Director of Public Works
		Concept Plan Requirements
✓		Plans on 11"x17" paper or larger
✓		Sheets are numbered & scale is indicated (if scaled)
✓		Boundaries of the property and total area of the property in square feet and acres
✓		General location, size (in square feet), and use of all proposed structures
✓		General location of storm water management facilities
✓		General location of open space and/or landscaping areas
✓		General location of proposed improvements such as but not limited to the general placement of sidewalks or trail facilities, the general location of proposed traffic improvements, and/or the general location of proposed public facilities
✓		General location of proposed parking areas, entrances onto rights of way, storage areas, display areas, recreational areas, and required buffer yards
✓		General location and size of proposed rights of way
✓		Location and size of existing public rights of way

Please Note:
The above information is a minimum standard for submission. If any of these items are not applicable to your project, please indicate with an "n/a" in the checkbox next to the item. The concept plan does not require preparation by a certified engineer unless specifically requested during review by the Town. Additional requirements may apply, please reference the Zoning Ordinance for any additional standards for your project.

Acknowledgement:
I have read the above minimum submission requirements, and by signing the following statement of acknowledgement, do believe that the special use permit application I have submitted to the Town of Purcellville is substantially complete. I also acknowledge that there are additional requirements which are not included on the minimum submission requirements which shall be enforced. By signing, I also understand that Town Staff will issue additional comments on the application and that the presence of all required information does not guarantee approval, and if during the review of this application by Town Staff it is determined that my application is actually incomplete, it can be rejected and returned.

Robert W. Lohr Jr. — October 7, 2016

Signed, Property Owner Robert W. Lohr, Jr., Town Manager — Date

Signed, Preparing Designer/Engineer/Agent — Date

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Makersmiths – Purcellville
Town of Purcellville
Special Use Permit
Statement of Justification
September 28, 2016

Introduction/Written Statement

Makersmiths is proposing to lease the buildings and share use of the surrounding fenced land formerly used by the Town of Purcellville for vehicle storage and water treatment at 785 and 787 S. 20th St. Makersmiths is a non-profit organization operating maker spaces in Western Loudoun County. Maker spaces are community workshops that allow members of the community to work with and learn about new and old technologies. By locating a maker space on this Town-owned property, we believe it qualifies as a "public or government building, facility, or use not otherwise defined" which is allowed by special use permit within the IP (Institutional and Public Use) zoning district. The maker space would be open 24 hours a day, but there would be required quiet hours from the time of 10 PM – 8 AM.

There are several hundred makerspaces around the country, and the activity in each is a reflection of the needs and interests of the community in which it operates. Generally, there are some common kinds of activities you might see in a makerspace, and we anticipate these activities in our Purcellville location:

- Wood working shop (e.g. table saw, band saw, sanders, routers, planers, drill press, handle and portable power tools, etc.)
- Metal working shop (e.g. metal lathe, metal bandsaw, metal milling machines, metal bending, and some welding [consistent with activities performed in a muffler shop, for example])
- Craft area: (cutting of fabrics, paper, gluing, painting, plant potting, pumpkin carving, etc.)
- Classroom
- Electronics lab: circuit testers, breadboards, modular electronics devices like Arduino/Little Bits, some minor soldering
- Electronics and robotics fabrication: building robots, drones, FIRST robotics platforms, science fair projects, etc.
- CAD/Coding laboratories: computer labs
- 3D printing/computer lab: Multiple computers, connected to 3D printers
- CNC mill/router: Computers hooked up to 3D computer controlled router
- Laser cutters: easy to use tools that cut materials into various shapes

In addition to these common areas, we anticipate working with local residents, artists and entrepreneurs on other types of making that reflect the passions and interests of Purcellville.

This could include:

- Expanded art resources, such as a ceramic studio, painting, glass blowing
- A focus on agricultural innovation, with projects aimed at prototyping new ways to harness technological innovation to improve crops and produce from the area. Examples of this might be wirelessly enabling honey production and bee research, the use of drones to monitor fields, harnessing DIYBio activities to improve understanding of the biological sciences, developing technologies to keep pests away from crops, and using electronics or just plain best practices to yield better garden results. (Any plantings, if they occur on site, will occur using soil from off-site, in raised beds)

Issues for Consideration

1. *Whether the proposed application is consistent with the comprehensive plan.*

   We seek to enhance community character and the environment by rehabilitating the proposed property, while building opportunities for citizens to learn, make and inspire. The community, tools, and innovation incubated in this facilities will develop an environment where public/private organizations and citizens forge economic partnerships, which create incentives for tech-based, and innovative businesses to locate in Purcellville and brand the town as a tech-incubator with a "home town" feel.

2. *Whether the proposed special use at the specified location will contribute to or promote the welfare and convenience of the public.*

   A maker space at the proposed location will give area residents (including current and future Town of Purcellville residents, as well as people who come from outside of Purcellville) opportunities to learn about new things that can become life skills or business opportunities. This supports the community's educational assets, economic development and diversification, and other quality of life attributes. They may do this by taking part in a variety of Makersmiths programming, from free events to paid workshops, or by becoming regular members and users of the space.

3. *Whether the proposed use is compatible with other existing or proposed uses in the neighborhood, and adjacent parcels.*

   Many surrounding parcels are zoned residential, including one quite close to the main gate entrance to the proposed property. As a new use for this property, Makersmiths is aware of its responsibility for being a good neighbor and plans to invoke practices such as quiet hours as required. Makersmiths and the Town of Purcellville have received favorable endorsements from the closest neighbors, indicating their support for and interest in using the Makersmiths makerspace.

4. *Whether the level and impact of any noise or odor emanating from the site, including that generated by the proposed special use, negatively impacts the uses in the immediate area.*

   Makersmiths believes there will be only occasional daytime noise emanating from the site, and no odors emanating from the site

   These sounds, if heard during the day, would be from machines like woodworking tools, or similar to the kinds of sounds you might hear outside of an automobile repair place (pneumatic air tools). These tools (wood planers, joiners and some saw equipment, and some air tools), make enough noise that they might be heard outside of our building, particularly if there is an open door, but not so much that they would carry off of the site at a disturbing level. Generally, most of the tools used in a makerspace don't generate audible noise that would reach out past the property. These kinds of tools that make some noise inside the building but little outside the building include 3D printers, laser cutters and metal bending and milling equipment. A very large amount of tools used in a makerspace generate little or no noise. Soldering electronics, making ceramics, programing a robot, or painting in an arts class are good examples of this.

   In addition, we will maintain quiet hours from the time of 10 PM – 8 AM where there will be NO machine noise emanating from the site.

   We base this on our operating history of our current space in Leesburg, which is co-located in a building that houses, among other tenants, a community of medically fragile people who are very sensitive to loud noises, disturbances and odors. In a year of co-residency in very close proximity, we have zero reports of disturbances or complaints. Reference contacts for the co-tenants are available as additional reference.

A similar situation exists at Nova Labs, a Reston-based makerspace that is the closest makerspace to the Leesburg and planned Purcellville space. They share a building with a daycare and have not had any noise or smell issues, even though they share a building.

Likewise, Techshop, the for-profit makerspace in Alexandria, Virginia, shares space with retail establishments, including restaurants, and they co-exist very well, even though they are in direct proximity in an enclosed urban space.

Issues may come up, and Makersmiths will maintain a phone/contact tree for any neighbors to report any inconveniences that may come up so that they can be immediately remediated.

5. *Whether the proposed special use will result in the preservation or damage of any existing habitats, vegetation, topographic or physical, natural, scenic, archeological, or historic feature of significant importance.*

   No activities are planned that would cause any such damage.

6. *Whether the proposed special use will impact existing water quality or air quality.*

   The facility does not anticipate dumping any chemicals into the sewers that are not traditionally part of household water waste (e.g. dishsoap and other things that are normally sent down the drain in a responsible household).

   We do use tools that produce minor exhaust. This includes 3D printers and laser cutters, soldering, some welding equipment, and occasional painting activities. In our current facility, these odors have been negligible and have caused no discomfort or disturbance to the medically fragile residents who are in the same building with us (and there are gaps and airflow between our spaces). We anticipate following industry standard best practices in filtering and mitigating any exhaust so that there is no impact to any adjacent neighbors.

   Furthermore, we plan on maintaining a "hotline" whereby residents can report any disturbing noise or odor, so they can be immediately ameliorated.

7. *Whether the traffic generated by the proposed use will be adequately and safely served by roads, pedestrian connections, and other transportation services.*

   Normal activities on the property will be served adequately and safely by roads. The nearest sidewalk/multi-use path leads only to the intersection of 20th and A Street, so it will not be recommended that people walk to the facility. Any large events hosted at the facility would be handled as a town event, requiring greater parking and different safety concerns.

8. *Whether the proposed use will negatively impact orderly and safe road development and transportation in accordance with the comprehensive plan and all relevant transportation and corridor plans.*

   The proposed use will make no changes to the exterior portion of the property, so it will not impact orderly and safe road development.

9. *Whether the proposed use will be served adequately by essential public facilities and services.*

   Initial surveys show there to be adequate power (including three-phase on site) at the facility. Makersmiths has been told that town water and sewer service will be connected, which will be sufficient. Trash removal, internet, and other services will be procured by Makersmiths.

10. *Whether, in the case of existing structures to be converted to uses requiring a special use permit, the existing structures can be converted in such a way that retains the character of the neighborhood in which the existing structures are located, especially when an application seeks to convert a building of historic significance.*

    As determined by the Town Council and professional staff, this is a unique application of the special use term because of the type of organization Makersmiths is. The facilities will not be altered to allow special use. Modifications to any existing structure will match the structure's existing materials and style of design.

11. *Whether the proposed special use contributes to the economic development needs of the town.*

    A maker space can become the creative and entrepreneurial engine of a town. Between people coming to the site to build, inventors using the facility

to learn new skills for their plans, or small businesses incubating within its walls, the space provides immediate (greater traffic for town supply stores and restaurants) and long-term (businesses founded within the town staying and providing a larger tax base) economic development.

12. *Whether adequate on and off site infrastructure is available.*

    Based on surveys completed to date, and all existing plans, the on-site and nearby infrastructure is adequate.

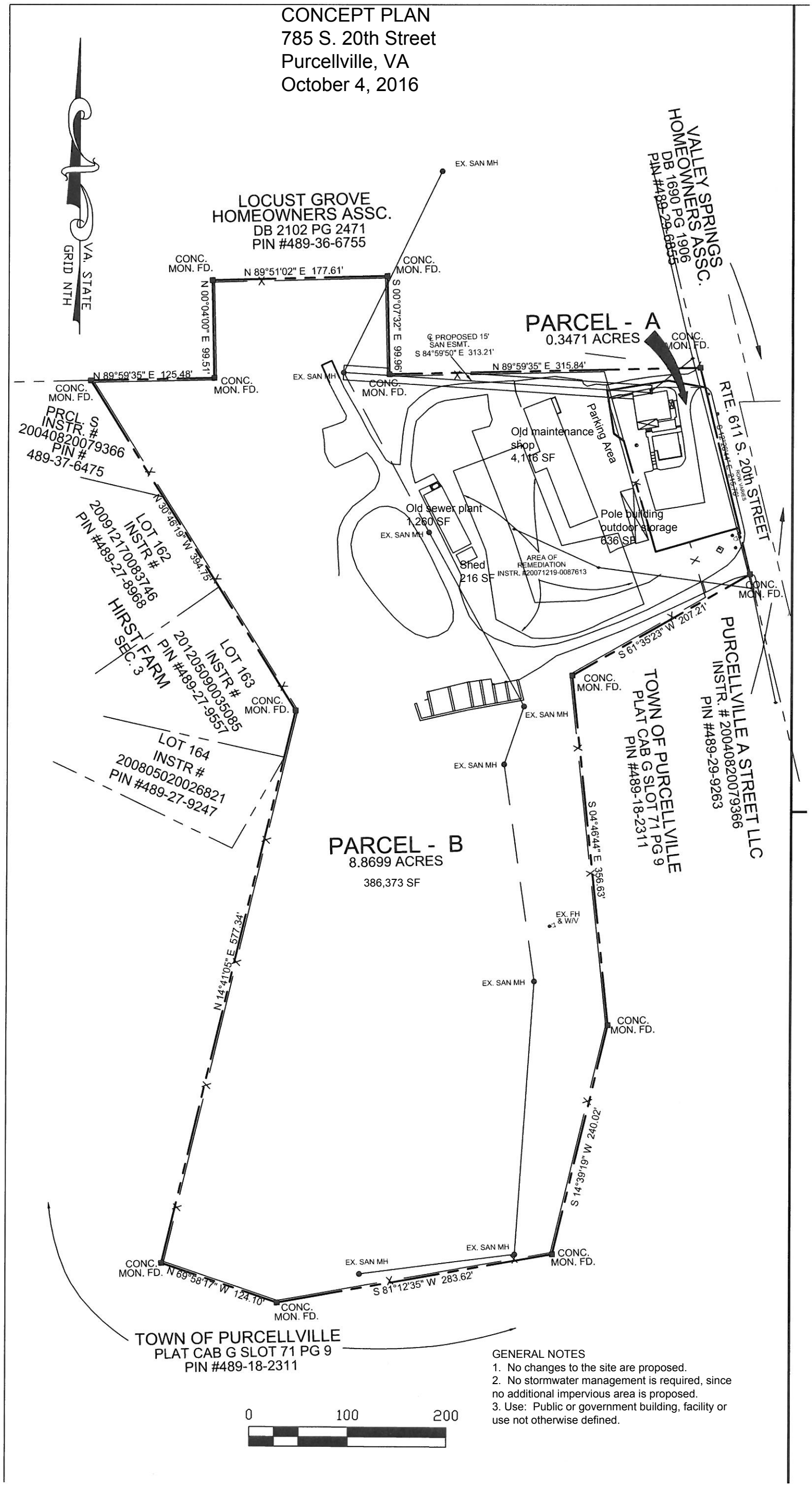
13. *Whether the proposed special use illustrates sufficient measure to mitigate the impact of construction traffic on existing neighborhoods and schools.*

    Not Applicable: We do not plan any heavy construction that might affect neighborhoods or schools. Modifications to any existing structure will match the structure's existing materials and style of design. Modifications that are done are likely to be similar to traditional homeowner repairs: a pickup truck to Nichols or Home Depot, and a few people coming over to the space to work together on repairing drywall and other aspects of the structure.

    If there are any major changes to this plan, we will work with Town Staff to ensure there is no undo impact to residents or schools.

Concept Plan

Makersmiths intends to use the leased property "as is", putting tools, computers, and equipment in the existing buildings. There will be no change to the outside appearance or layout of the property. Therefore, the site plan will be unchanged.



GENERAL NOTES
1. No changes to the site are proposed.
2. No stormwater management is required, since no additional impervious area is proposed.
3. Use: Public or government building, facility or use not otherwise defined.

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ATTACHMENT 4

Town Manager
Robert W. Lohr, Jr.

Assistant Town Manager
Daniel C. Davis

221 S. Nursery Avenue
Purcellville, VA 20132
(540) 338-7421
www.purcellvilleva.gov

Town of Purcellville Virginia

Town Attorney
Sally G. Hankins

Chief of Police
Cynthia A. McAlister

Department Directors
Elizabeth Krens, Finance
Alex Vanegas, Public Works
Patrick Sullivan, Community Development
Shannon Bohince, Information Technology
Hooper McCann, Administration

October 5, 2016

Patrick Sullivan, AICP.
Director of Community Development
Town of Purcellville
221 S. Nursery Avenue
Purcellville, VA. 20132

RE: SUP Applications for Makersmiths

Mr. Sullivan,

Staff has reviewed the information regarding the proposed Special Use Permit (SUP) Application for Makersmiths with respect to potential traffic impacts to S. 20th Street. Reviewing the information provided by the applicant, it does not appear that the facility will generate significant peak hour trips. If you combine a class and typical activity, it appears that the total peak hour trips will be 20 or less. In addition, the property associated with this application was designed and previously utilized as a municipal maintenance facility and wastewater reclamation facility – open for use not only on a work week basis but as the nature of municipal maintenance service and wastewater treatment is expected around the clock, realistically, it was utilized as a 7 day/week – 365 days/year operation. As such, there was not only Town vehicles and equipment traffic but also that of the employees. The intended use is not expected to produce any increased amount of traffic/daily trips. Based on the aforementioned facts, I do hereby waive the traffic impact analysis (TIA) requirement for this SUP. Please let me know if you have any questions.

Sincerely,

Alex Vanegas, CPM
Director of Public Works

cc: Robert W. Lohr, Jr. Town Manager
Sally Hankins, Town Attorney

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Galindo, Daniel

From: Lohr, Rob
Sent: Friday, April 22, 2016 4:14 PM
To: Planning Commission; Davis, Daniel; Doug McCollum - Personal; Fraser, Kwasi; Fuller, Melanie; Hankins, Sally; Jimmerson, Karen; John Nave - Personal; Lehr, Joan; McCann, Hooper; McCollum, Doug; McConville, Patrick; Nave, John; Patrick McConville - Personal; Lohr, Rob
Cc: Sullivan, Patrick; Galindo, Daniel
Subject: FW: Makersmiths Discussion Topics

Categories: Urgent

Some additional background information for PC. Thanks, Rob

From: Tom Hill
Sent: Friday, April 22, 2016 3:12 PM
To: Lohr, Rob
Cc: Pat (Makersmiths); Mark Millsap
Subject: Makersmiths Discussion Topics

Rob-

Great to talk with you today. If you need to talk, my phone number is xxx-xxx-xxxx.

Here are the answers to the questions you sent me earlier, as we discussed today.

Tom

1) List of all activities/machines/processes that you would propose to have at this location

   a. Classroom training
   b. Woodworking
   c. Metal working (sheet metal forming, machining, smithing, welding, finishing)
   d. Electronics development (Robotics, agricultural technology)
   e. Ceramics
   f. Office space
   g. Sewing
   h. Community outreach events (Fairs, competitions)
   i. Equipment (see attached list sent to Leesburg, though equipment changes frequently and will remain in compliance with IP)

2) What processes will be outside vs. inside (Materials, products or other storage)

   a. Makers spaces are a lot like a college classroom, most acitivities take place inside, in nice weather items will move outside. At our Leesburg location, we've only had our ribbon cutting

and an outdoor social outdoors. Anything we do outdoors would be in compliance with IP zoning.

3) Hours of requested operations

    a. Currently, our hours are 24/7 with accepted quiet hours based on the location

4) Parking needs

    a. For normal operations, the parking area in front of the main building should be sufficient.
    b. For medium-size events, the road leading down to the plain below should provide enough additional parking
    c. For large-scale events, parking at Blue Ridge Middle or other places around town with shuttle service might be arranged. We would work with the town staff in case of any larger events.

5) Mission statement focusing on your educational/incubator component

    a. From our business cards: “We are a non-profit organization providing knowledge, space, equipment, community & programs to enable you to learn, design, make, launch, work and play.”

6) Any examples of zoning ordinances or text amendments that you used in other communities to locate your operations (Our challenge here is this isn't zoned business or commercial but is restrictive IP surrounded by residential so we will need to be creative but also provide protection for the surrounding residential property)

    a. I forwarded the letter to Leesburg in a separate email, which should answer most questions.

7) Times your operations are open in Leesburg and Reston so that I can get members of staff and possible PC up there for a tour

    a. Standing offer for Tuesday and Thursday evenings. This is open workshop time at Leesburg, but let us know so we can be sure to get the right person there.
    b. Any other time by appointment, Saturday and Sunday afternoons preferred.

STAFF REPORT
PUBLIC HEARING

Item #3.c.

SUBJECT: Disclosure of Real Parties in Interest

DATE OF MEETING: November 3, 2016

STAFF CONTACTS: Sally Hankins, Town Attorney

SUMMARY:

On September 13, 2016, Town Council adopted Resolution No. 16-09-02, initiating an amendment to Article 11 of the Zoning Ordinance to add a requirement that all applicants for Special Use Permit, Special Exception, Zoning Map Amendment, Zoning Concept Plan Amendment, Proffer Amendment, Zoning Text Amendment, Zoning Ordinance Modification, and Variance make a full public disclosure of the legal and equitable ownership interests in the real property that is the subject of such application, and periodically affirm such disclosure. Such a disclosure is referred to as a *Disclosure of Real Parties in Interest*. The purpose of the proposed Ordinance is to increase transparency and avoid conflicts of interest.

On November 3, 2016, the Planning Commission and Town Council are conducting a joint public hearing to receive public comment on this proposed ordinance, attached hereto as Ordinance No. 16-09-01.

RECOMMENDATION:

At the conclusion of the joint public hearing, the Planning Commission may discuss and act upon the proposed ordinance. The Planning Commission may then elect to add this item to its agenda for action at the November 3, 2016 meeting, or it may defer such discussion and action to a subsequent meeting or meetings of the Planning Commission. Town Council must defer any action on the proposed ordinance until the Planning Commission has adopted a recommendation, or until sufficient time has passed without a recommendation. The timing of such recommendation by the Planning Commission and action by Town Council is at the discretion of the respective bodies.

BACKGROUND:

Virginia Code Section 15.2-2289 authorizes a locality's Planning Commission, Town Council, or Board of Zoning Appeals to require the complete disclosure of the equitable ownership interests in real property that is the subject of one of the following types of application: Special Exception, Special Use Permit, Zoning Ordinance Map Amendment, Zoning Ordinance Text Amendment, and Variance. The statute provides that, in the case of corporate ownership, such ordinance may require disclosure of the stockholders, officers, and directors, provided that such disclosure shall not be required when the corporation is traded on a national or local stock exchange and has more than 500 shareholders. The statute also exempts those who own fewer than 10% of the units within a condominium building.

A principal purpose of the *Disclosure of Real Parties in Interest* is to make elected and appointed officials aware of the individuals who have an interest in the application before them. Once that information has been disclosed, it is the obligation of the elected or appointed official to review the information and determine whether or not a conflict of interest exists, in accordance with the Virginia Conflicts of Interest Act. A secondary purpose of the *Disclosure* is to give full awareness to the public of the various parties who have an interest in a land development application, whereas sometimes that information can be difficult to obtain due to the creation of LLCs and other similar corporate entities.

ISSUES:

It should be noted that Zoning Ordinance Article 11, Section 18 addresses Conflicts of Interests in zoning matters, and appears to be intended to prohibit participation by public officials who have a conflict of interest in zoning matters. Such a prohibition has the effect of disallowing participation by a public official that is allowed in some cases under the Virginia Conflict of Interest Act. The Town Attorney has opined that Zoning Ordinance Article 11, Section 18 is preempted by the Virginia Conflict of Interest Act. For that reason, the proposed Ordinance (Section 19.8) has been drafted such that if a conflict of interest exists, the affected member is required to take the minimum actions required under the Virginia Conflict of Interest Act, but may *elect* to go further and refrain from participation.

BUDGET IMPACT:

During the application review process, additional staff time will be needed to review the Disclosure of Real Parties in Interest for completeness and to review the required Affirmations. Further, there will likely be additional requests to the Town Attorney for determinations of conflict under the Virginia Conflict of Interest Act.

PLANNING COMMISSION MOTIONS:

1. I move that the Planning Commission move this item to its meeting on November [17], 2016, for discussion and possible action.

   OR

2. I move that the Planning Commission amend the November 3, 2016 agenda to add this item as an action item.

   AND *(when ready to take action]*

   I move that the Planning Commission recommend [adoption or rejection] of Ordinance 16-09-01, which would amend the Zoning Ordinance to require that land development applicants make a full public disclosure of the legal and equitable ownership interests in the real property that is the subject of such application, and periodically affirm such disclosure.

TOWN COUNCIL MOTIONS

(To be used only if the Planning Commission has made a recommendation to Town Council on this item. If the Planning Commission moves this item to a future Planning Commission meeting for discussion, the Town Council should make no motion and take no action regarding this item on November 3, 2016.)

1. I move that the Town Council [adopt or reject] Ordinance 16-09-01, amending the Zoning Ordinance to require that land development applicants make a full public disclosure of the legal and equitable ownership interests in the real property that is the subject of such application, and periodically affirm such disclosure.

OR

2. I move that the Town Council move this item to its meeting on _____ _____, for discussion and possible action.

ATTACHMENTS:

1. Ordinance Number 16-09-01, amending Zoning Ordinance Article 11 to require that land development applicants make a full public disclosure of the legal and equitable ownership interests in the real property that is the subject of such application, and periodically affirm such disclosure.

2. Redline of Ordinance number 16-09-01. The redline highlights changes made to the Ordinance since it was presented to Town Council at its meeting on September 13, 2016.

3. Form and instructions for the *Affidavit of Disclosure of Real Parties in Interest*

4. Form and instructions for the *Affirmation of Disclosure of Real Parties in Interest*

ATTACHMENT 1

TOWN OF PURCELLVILLE

IN

LOUDOUN COUNTY, VIRGINIA

ORDINANCE NO. 16-09-01 **PRESENTED:** **September 13, 2016**
ADOPTED:

AN ORDINANCE: AMENDING ARTICLE 11 OF THE TOWN OF PURCELLVILLE ZONING ORDINANCE TO ADD SECTION 19, REQUIRING ALL APPLICANTS FOR SPECIAL USE PERMIT, SPECIAL EXCEPTION, ZONING MAP AMENDMENT, ZONING CONCEPT PLAN AMENDMENT, PROFFER AMENDMENT, ZONING TEXT AMENDMENT, ZONING ORDINANCE MODIFICATION, AND VARIANCE TO COMPLETE AN AFFIDAVIT OF DISCLOSURE OF REAL PARTIES IN INTEREST AND TO AFFIRM SUCH DISCLOSURE

WHEREAS, the Town Council desires that applicants for Special Use Permit, Special Exception, Zoning Map Amendment, Zoning Concept Plan Amendment, Proffer Amendment, Zoning Text Amendment, Zoning Ordinance Modification, and Variance make a full public disclosure of the legal and equitable ownership interests in the real property that is the subject of such application, and periodically affirm such disclosure; and

WHEREAS, the Town Council finds that such disclosures will enhance transparency, will avoid conflicts of interest, and will serve the public necessity, convenience, and general welfare.

THEREFORE, the Council of the Town of Purcellville, Virginia hereby ordains:

Section 1. That Zoning Ordinance Article 11 ("Administration and Enforcement") is hereby amended to add Section 19 as follows:

Section 19. Disclosures of Real Parties in Interest

19.1 An applicant for Special Use Permit, Special Exception, Zoning Map Amendment, Zoning Concept Plan Amendment, Proffer Amendment, Zoning Text Amendment, Zoning Ordinance Modification, and Variance shall include as part of the minimum application submission requirements a completed *Affidavit of Disclosure of Real Parties in Interest* form, disclosing the legal and equitable ownership interests in the real property that is the subject of such application.

19.2 In accordance with Virginia Code 15.2-2289, such disclosure shall not be required of a corporation having more than 500 shareholders whose stock is traded on a national or local stock exchange, nor shall it be required from a condominium owner, contract purchaser, or lessee who owns less than 10% of the units in the condominium.

19.3 A "real party in interest" shall include all parties who have a legal, equitable or beneficial interest in the subject property, including applicants, title owners, contract purchasers, lessees, trustees, beneficiaries (including beneficiaries under a trust, an easement, or a restrictive covenant), and executors.

19.4 Any real party in interest that is a PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, or TRUST shall name its owners, partners (general and limited), shareholders, and beneficiaries, each of whom must be broken down successively until: (a) only individual persons are listed or (b) the listing is a business entity having more than 100 owners (eg; partners, shareholders, or members), in which case only those individual persons who own 10% or more of the business entity must be listed. Limited liability companies, sole proprietorships, and real estate investment trusts and their equivalents shall be treated as corporations, with members and managing members deemed the equivalent of shareholders.

19.5 Prior to each and every hearing for a Special Use Permit, Special Exception, Zoning Map Amendment, Zoning Concept Plan Amendment, Proffer Amendment, Zoning Text Amendment, Zoning Ordinance Modification, or Variance, and again prior to action by the Planning Commission, Town Council, or Board of Zoning Appeals, the applicant shall complete and submit to the Town an *Affirmation of Disclosure* form, affirming that the Disclosure remains complete, or providing any changed or supplemental information. If there are no changes or supplemental information to provide, the applicant shall nonetheless complete the *Affirmation of Disclosure* confirming so.

19.6 The Town Council authorizes and directs Town Staff to prepare, maintain, and modify as needed an *Affidavit of Disclosure of Real Parties in Interest* form and an A*ffirmation of Disclosure* form.

19.7 The "Disclosure" and the "Affirmation of Disclosure" forms shall not be altered or modified in any way by the applicant. Any form that is altered or modified in any way will not be accepted.

19.8 Each member of the Planning Commission, Town Council, and Board of Zoning Appeals shall, prior to participating in a meeting concerning an application for which a Disclosure is required, examine the Disclosure and all Affirmations of Disclosure to determine whether he, or a member of his immediate family, has a relationship with any Disclosed parties in interest. If such a relationship exists, the affected member of the

public body shall seek a determination from the Town Attorney, or other person authorized under the Code of Virginia to render a Conflict of Interest Opinion, concluding whether a conflict exists under the Virginia Conflict of Interest Act. If such a conflict is determined to exist, the affected member shall, at a minimum, take action to address the conflict as required under the Virginia Conflict of Interest Act. The affected member may voluntarily go beyond what is required under the Virginia Conflict of Interest Act and refrain from all participation in the matter.

Section 2. That all prior ordinances in conflict herewith are hereby repealed.

Section 3. That this ordinance shall be effective upon its adoption and shall apply to applications commenced after its effective date.

Section 4. That if any section, paragraph, subdivision, clause, phrase, or provision of this ordinance shall be adjudged invalid by the courts, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so decided to be invalid.

Cross References

Va. Code § 15.2-2289 ("Localities may provide by ordinance for disclosure of real parties in interest")

PASSED THIS ___ DAY OF _____, 2016.

_____
Kwasi A. Fraser, Mayor
Town of Purcellville

ATTEST:

_____
Diana Hays, Town Clerk

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ATTACHMENT 2

TOWN OF PURCELLVILLE

IN

LOUDOUN COUNTY, VIRGINIA

ORDINANCE NO. 16-09-01 **PRESENTED:** **September 13, 2016**
ADOPTED:

AN ORDINANCE: AMENDING ARTICLE 11 OF THE TOWN OF PURCELLVILLE ZONING ORDINANCE TO ADD SECTION 19, REQUIRING ALL APPLICANTS FOR SPECIAL USE PERMIT, SPECIAL EXCEPTION, ZONING MAP AMENDMENT, ZONING CONCEPT PLAN AMENDMENT, PROFFER AMENDMENT, ZONING TEXT AMENDMENT, ZONING ORDINANCE MODIFICATION, AND VARIANCE TO COMPLETE AN AFFIDAVIT OF DISCLOSURE OF REAL PARTIES IN INTEREST AND TO AFFIRM SUCH DISCLOSURE

WHEREAS, the Town Council desires that applicants for Special Use Permit, Special Exception, Zoning Map Amendment, Zoning Concept Plan Amendment, Proffer Amendment, Zoning Text Amendment, Zoning Ordinance Modification, and Variance make a full public disclosure of the legal and equitable ownership interests in the real property that is the subject of such application, and periodically affirm such disclosure; and

WHEREAS, the Town Council finds that such disclosures will enhance transparency, will avoid conflicts of interest, and will serve the public necessity, convenience, and general welfare.

THEREFORE, the Council of the Town of Purcellville, Virginia hereby ordains:

Section 1. That Zoning Ordinance Article 11 ("Administration and Enforcement") is hereby amended to add Section 19 as follows:

Section 19. Disclosures of Real Parties in Interest

19.1 An applicant for Special Use Permit, Special Exception, Zoning Map Amendment, Zoning Concept Plan Amendment, Proffer Amendment, Zoning Text Amendment, Zoning Ordinance Modification, and Variance shall include as part of the minimum application submission requirements a completed *Affidavit of Disclosure of Real Parties in Interest* form, disclosing the legal and equitable ownership interests in the real property that is the subject of such application.

19.2 In accordance with Virginia Code 15.2-2289, such disclosure shall not be required of a corporation having more than 500 shareholders whose stock is traded on a national or local stock exchange, nor shall it be required from a condominium owner, contract purchaser, or lessee who owns less than 10% of the units in the condominium.

19.3 A "real party in interest" shall include all parties who have a legal, equitable or beneficial interest in the subject property, including applicants, title owners, contract purchasers, lessees, trustees, beneficiaries (including beneficiaries under a trust, an easement, or a restrictive covenant), and executors.

19.4 Any real party in interest that is a PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, or TRUST shall name its owners, partners (general and limited), shareholders, and beneficiaries, each of whom must be broken down successively until: (a) only individual persons are listed or (b) the listing is a business entity having more than 100 owners (eg; partners, shareholders, or members), in which case only those individual persons who own 10% or more of the business entity must be listed. Limited liability companies, sole proprietorships, and real estate investment trusts and their equivalents shall be treated as corporations, with members and managing members deemed the equivalent of shareholders.

19.5 Prior to each and every hearing for a Special Use Permit, Special Exception, Zoning Map Amendment, Zoning Concept Plan Amendment, Proffer Amendment, Zoning Text Amendment, Zoning Ordinance Modification, or Variance, and again prior to action by the Planning Commission, Town Council, or Board of Zoning Appeals, the applicant shall complete and submit to the Town an *Affirmation of Disclosure* form, affirming that the Disclosure remains complete, or providing any changed or supplemental information. If there are no changes or supplemental information to provide, the applicant shall nonetheless complete the *Affirmation of Disclosure* confirming so.

19.6 The Town Council authorizes and directs Town Staff to prepare~~ and~~, maintain, and modify as needed an *Affidavit of Disclosure of Real Parties in Interest* form and an A*ffirmation of Disclosure* form.

19.7 The "Disclosure" and the "Affirmation of Disclosure" forms shall not be altered or modified in any way by the applicant. Any form that is altered or modified in any way will not be accepted.

19.8 Each member of the Planning Commission, Town Council, and Board of Zoning Appeals shall, prior to participating in a meeting concerning an application for which a Disclosure is required, examine the Disclosure and all Affirmations of Disclosure to determine whether he, or a member of his immediate family, has a relationship with any Disclosed parties in interest. If such a relationship exists, the affected member of the

public body shall seek a determination from the Town Attorney, or other person authorized under the Code of Virginia~~ Code~~ to render a Conflict of Interest Opinion, concluding whether a conflict exists under the Virginia Conflict of Interest Act. If such a conflict is determined to exist, the affected member shall~~ in all cases handle~~, at a minimum, take action to address the conflict ~~so~~ as ~~to satisfy~~required under the Virginia Conflict of Interest Act~~ and, in addition, shall handle the conflict so as to satisfy Town ordinance requirements governing conflicts, to the extent such ordinances are permitted by law~~. The affected member may voluntarily go beyond what is required under the Virginia Conflict of Interest Act and refrain from all participation in the matter.

Section 2. That all prior ordinances in conflict herewith are hereby repealed.

Section 3. That this ordinance shall be effective upon its adoption and shall apply to applications commenced after ~~the~~its effective date.

Section 4. That if any section, paragraph, subdivision, clause, phrase, or provision of this ordinance shall be adjudged invalid by the courts, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so decided to be invalid.

Cross References

Va. Code § 15.2-2289 ("Localities may provide by ordinance for disclosure of real parties in interest")

PASSED THIS ___ DAY OF _____, 2016.

_____
Kwasi A. Fraser, Mayor
Town of Purcellville

ATTEST:

_____
Diana Hays, Town Clerk

Document comparison by Workshare Professional on Monday, October 31, 2016 11:58:29 AM

Input:	
Document 1 ID	file://Y:\Zoning Ordinance Text Amendments\Disclosures of Real Parties in Interest\Staff Report for 9.13.16 TC Meeting\Ordinance 16-09-01 (Included In 9.13.16. Agenda Packet).docx
Description	Ordinance 16-09-01 (Included In 9.13.16. Agenda Packet)
Document 2 ID	file://Y:\Zoning Ordinance Text Amendments\Disclosures of Real Parties in Interest\Staff Report for 11.3.16. PH\Ordinance 16-09-01 v2 (PH Packet).docx
Description	Ordinance 16-09-01 v2 (PH Packet)
Rendering set	Standard

Legend:	
Insertion	
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Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	10
Deletions	7
Moved from	0
Moved to	0
Style change	0

Format changed	0
Total changes	17

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TOWN OF PURCELLVILLE
AFFIDAVIT OF DISCLOSURE: REAL PARTIES IN INTEREST IN LAND USE PROCEEDINGS

A. INTRODUCTION

Under authority of Va. Code Ann. § 15.2-2289 and Zoning Ordinance Article 11, Section 19, the Town requires each applicant for Special Use Permit, Special Exception, Zoning Map Amendment, Zoning Concept Plan Amendment, Proffer Amendment, Zoning Text Amendment, Zoning Ordinance Modification, and Variance to submit with its initial application a completed *Disclosure of Real Parties in Interest* form, and to update and affirm such disclosure prior to each public hearing and, again, prior to action by the Planning Commission, Town Council, or Board of Zoning Appeals.

The Town Council has directed Town Staff to prepare and maintain forms for the *Disclosure of Real Parties in Interest* and the *Affirmation* of such disclosures. **The "Disclosure" and "Affirmation of Disclosure" forms shall not be altered or modified in any way. Any form that is altered or modified in any way will not be accepted.**

B. INSTRUCTIONS

1. An applicant for Special Use Permit, Special Exception, Zoning Map Amendment, Zoning Concept Plan Amendment, Proffer Amendment, Zoning Text Amendment, Zoning Ordinance Modification, and Variance shall include as part of the minimum application submission requirements a completed *Disclosure of Real Parties in Interest* form, disclosing the legal and equitable ownership interests in the real property that is the subject of such application.

2. In accordance with Virginia Code 15.2-2289, such disclosure shall not be required of a corporation having more than 500 shareholders whose stock is traded on a national or local stock exchange, nor shall it be required from a condominium owner, contract purchaser, or lessee who owns less than 10% of the units in the condominium.

3. A "real party in interest" shall include all individual persons and business entities who have a legal, equitable or beneficial interest in the property that is the subject of an application, including applicants, title owners, contract purchasers, lessees, trustees, beneficiaries (including beneficiaries under a trust, an easement, or a restrictive covenant), and executors.

4. Any real party in interest that is a PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, or TRUST shall name its owners, partners (general and limited), shareholders, and beneficiaries, each of whom must be broken down successively until: (a) only individual persons are listed or (b) the listing is a business entity having more than 100 owners (eg; partners, shareholders, or members), in which case only those individual persons who own 10% or more of the business entity must be listed. Limited Liability Companies, sole proprietorships, and Real Estate Investment Trusts and their equivalents shall be treated as corporations, with members and managing members deemed the equivalent of shareholders.

5. In addition to real parties in interest, the agent of any real party in interest must also be disclosed in the same manner as a real party in interest.

6. Prior to each and every public hearing for a Special Use Permit, Special Exception, Zoning Map Amendment, Zoning Concept Plan Amendment, Proffer Amendment, Zoning Text Amendment, Zoning Ordinance Modification, or Variance, and again prior to action by the Planning Commission, Town Council, or Board of Zoning Appeals, the applicant shall complete and submit to the Town an *Affirmation of Disclosure* form, affirming that the Disclosure remains complete, or providing any changed or supplemental information.

7. The "Disclosure" and the "Affirmation of Disclosure" forms shall not be altered or modified in any way. Any form that is altered or modified in any way will not be accepted.

C. AFFIDAVIT OF DISCLOSURE: REAL PARTIES IN INTEREST IN LAND USE PROCEEDINGS

I, _____, do hereby state that I am an:

___ Applicant

___ Applicant's Authorized Agent

in Application Number(s): _____ ("Application")

and that to the best of my knowledge and belief, the following information is true:

C.1. *REAL PARTIES IN INTEREST*

That the following constitutes a listing of the names and addresses of all parties who have a legal, equitable or beneficial interest in the land described in the Application, including the applicants, title owners, contract purchasers, lessees, trustees, beneficiaries (including beneficiaries under a trust, an easement, or a restrictive covenant), and executors. In addition, the following includes the names and addresses of all agents authorized to act on behalf of any real party in interest.

For a multiple parcel application, list the Parcel Identification Number ("PIN") of each parcel for each owner(s).

PIN	***NAME (First, M.I., Last)***	***ADDRESS (Street, City, State, Zip Code)***	***RELATIONSHIP***

Check if applicable:
_____ There is/are _____ more additional "Real Parties in Interest" sheet(s) attached.

C.2. *CORPORATION INFORMATION (see Instructions, Paragraph B.4 above)*

That the following constitutes a listing of all the corporations and shareholders required to be disclosed under Instruction B.4. This "Corporation Information" sheet has been completed for each such corporation.

Name and Address of Corporation: (complete name, street address, city, state, zip code)

_____

Description of Corporation:

_____*There are 100 or fewer shareholders and all shareholders are listed below.*

_____*There are more than 100 shareholders, and all shareholders owning 10% or more of any class of stock issued by said corporation are listed below.*

_____*There are more than 100 shareholders but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.*

_____*There are more than 500 shareholders and stock is traded on a national or local stock exchange, so no shareholders are listed below.*

Names of Shareholders:

SHAREHOLDER NAME (First, M.I., Last)	***SHAREHOLDER NAME (First, M.I., Last)***

Check if applicable:

_____ There is/are _____ more additional "Corporation Information" sheet(s) attached.

C.3. *PARTNERSHIP INFORMATION*

That the following constitutes a listing of all of the partnerships and partners, both general and limited, required to be disclosed under Instruction B.4. This "Partnership Information" sheet has been completed for each such partnership.

Partnership name and address: (complete name, street address, city, state, zip)

_____

_____(check if applicable) The above-listed partnership has no limited partners.

Names and titles of the Partners:

NAME ***(First, M.I., Last)***	***Title*** ***(e.g. General Partner, Limited Partner, etc.)***

Check if applicable:

_____ There is/are _____ more additional "Partnership Information" sheet(s) attached.

C.4. *COMPLETENESS*

That the information contained in this Affidavit of Disclosure is complete and fully complies with the requirements set forth in the Instructions.

That prior to each public hearing on this Application and, again, prior to action on this Application by the Planning Commission, Town Council, or Board of Zoning Appeals, I will submit an Affirmation of Disclosure that either affirms this Disclosure remains complete and in full compliance with the Instructions, or provides any changed or supplemental information.

WITNESS the following signature:

_____

check one: [ ] Applicant or [ ] Applicant's Authorized Agent

_____

(Type or print first name, middle initial and last name and title of signee)

Subscribed and sworn before me this _____ day of _____20 ___, in the State/Commonwealth of_____, in the County/City of _____.

_____

Notary Public

My Commission Expires: _____

Notary Registration Number: _____

TOWN OF PURCELLVILLE

AFFIRMATION OF THE
AFFIDAVIT OF DISCLOSURE OF REAL PARTIES IN INTEREST

Instructions:

1. On or before the close of business **twenty-two (22) business days prior to each public hearing** before the Planning Commission, the Town Council, and the Board of Zoning Appeals, the Applicant or the Applicant's Authorized Agent, which agent must be listed in Section C of the Applicant's *Affidavit of Disclosure*, shall submit a completed *Affirmation of Affidavit of Disclosure* that either:

    a. Affirms that the Affidavit of Disclosure submitted with the application is complete and accurate; or

    b. Attests that the *Affidavit of Disclosure* is no longer complete and accurate, identifying the Sections in the *Affidavit of Disclosure* that require revisions or supplemental information. In such case, the Applicant shall submit, also prior to the close of business 22 days before to the public hearing, a complete and accurate *Affidavit of Disclosure*.

2. If, subsequent to the timely submission of the *Affirmation of Disclosure* or new *Affidavit of Disclosure* as described above, the Applicant's *Affidavit of Disclosure* becomes inaccurate or incomplete at any time prior to the commencement of a scheduled public hearing, the Applicant must submit a complete and accurate *Affidavit of Disclosure* on the Town's form. Failure to submit such *Affidavit of Disclosure* prior to 5:00 p.m. seven (7) business days before the scheduled public hearing shall constitute cause for the Town to reschedule the application to a subsequent public hearing date that accommodates all notice and readvertising requirements. If the hearing for the application is deferred by the Town, the Applicant shall be responsible for all required notice to property owners and readvertising.

3. If the Applicant's hearing before the Planning Commission, Town Council, or Board of Zoning Appeals is deferred to a date that is more than twenty-two business days after the previously scheduled hearing date, the affirmation procedure described above shall be repeated.

4. At each and every hearing on the Application before the Planning Commission, Town Council and Board of Zoning Appeals, the Applicant or the Applicant's Authorized Agent, who must be listed in Section C of the Applicant's Affidavit, shall be required to make an oral statement that the affirmed affidavit or the new affidavit is accurate and complete as of the date of the hearing.

AFFIRMATION OF AFFIDAVIT OF DISCLOSURE FORM

In reference to the *Affidavit of Disclosure* dated _____

For the Application _____
[Application name(s)]

Identified as Application Number(s)_____
[Application number(s)]

I, _____, do hereby state that I am the

check one: _____ Applicant (must be listed in Paragraph C of the above-described affidavit)

_____ Applicant's Authorized Agent (must be listed in Paragraph C of the above-described Affidavit)

in the above-referenced Application and to the best of my knowledge and belief, the following information is true:

check one:

_____ I have reviewed the above-described *Affidavit of Disclosure*, and certify that the information contained therein is true and complete as of _____, or;
(date)

_____ I have reviewed the above-described *Affidavit of Disclosure*, and I am submitting a new complete and accurate *Affidavit of Disclosure* that includes changes, deletions or supplemental information to the following paragraphs of the above-described Affidavit:

_____Paragraph C
_____Paragraph C-1
_____Paragraph C-2
_____Paragraph C-3
_____Paragraph C-4

WITNESS the following signature:

_____
check one [ ] Applicant or [ ] Applicant's Authorized Agent

_____
(Type or print first name, middle initial and last name and title of signee)

Subscribed and sworn before me this _____day of _____, 20_____, in the State/Commonwealth of_____, in the County/City of _____.

_____
Notary Public

My Commission Expires: _____

Notary Registration Number: _____