

Public Hearing Notice

The Clarke County Board of Supervisors is providing notice of an intention to adopt an ordinance and will conduct a public hearing in the Berryville Clarke County Government Center Main Meeting Room, 101 Chalmers Court, 2nd Floor, Berryville, VA, on Tuesday, March 17, 2026, at 6:30 pm, or as soon thereafter as the matters may be heard, to hear public comment on the following:

PH2026-01: TA-25-05. Compliance with Senate Bill 974 Mandates and Related Procedural Amendments.

Proposed text amendment to amend County Code Chapter 200, Zoning Ordinance (Article I), Subdivision Ordinance (Article II), and Definitions (Article III). The purpose is to comply with new Code of Virginia mandates, which require transferring authority for site development plan and subdivision plat approvals from the Planning Commission, Berryville Area Development Authority, and Board of Supervisors to a “designated agent,” which the County has identified as the Zoning Administrator or, in their absence, the Director of Planning. The text amendment also modifies procedural requirements for application reviews including, but not limited to, creating new minimum requirements for a complete application for all application types; restructures the requirements for what constitutes minor and major subdivisions; eliminates pre-application conference requirements and public hearing requirements for site development plans and subdivision plats; replaces the maximum lot size exception process with an administrative process for an exception to the maximum area requirement in the Agricultural-Open Space-Conservation (AOC) District and a variance process for lots with low quality land characteristics, and transfers approval authority to the Zoning Administrator or Board of Zoning Appeals as applicable; and makes various changes to the traffic impact study requirements, off-street parking requirements, private access easement design waivers, court-ordered partitions of land, and required plat statements.

**ZONING AND SUBDIVISION ORDINANCES TEXT AMENDMENT (TA-25-05)
Compliance with Senate Bill 974 Mandates and Related Procedural Amendments
March 17, 2026 Board of Supervisors Meeting – PUBLIC HEARING
STAFF REPORT – Department of Planning**

The purpose of this staff report is to provide information to the Planning Commission and Board of Supervisors to assist them in reviewing this proposed ordinance amendment. It may be useful to members of the general public interested in this proposed amendment.

Description:

Proposed text amendment to amend County Code Chapter 200, Zoning Ordinance (Article I), Subdivision Ordinance (Article II), and Definitions (Article III). The purpose is to comply with new Code of Virginia mandates which require transferring authority for site development plan and subdivision plat approvals from the Planning Commission, Berryville Area Development Authority, and Board of Supervisors to a “designated agent,” which the County has identified as the Zoning Administrator or, in their absence, the Director of Planning. The text amendment also modifies procedural requirements for application reviews including but not limited to creating new minimum requirements for a complete application for all application types; restructures the requirements for what constitutes minor and major subdivisions; eliminates pre-application conference requirements and public hearing requirements for site development plans and subdivision plats; replaces the maximum lot size exception process with an administrative process for an exception to the maximum area requirement in the Agricultural-Open Space-Conservation (AOC) District and a variance process for lots with low quality land characteristics, and transfers approval authority to the Zoning Administrator or Board of Zoning Appeals as applicable; and makes various changes to the traffic impact study requirements, off-street parking requirements, private access easement design waivers, court-ordered partitions of land, and required plat statements.

Requested Action:

Conduct advertised Public Hearing and take action on the proposed text amendment.

Background:

Senate Bill 974 (SB 974) was adopted during the 2025 General Assembly session and was signed into law effective July 1, 2025. This legislation has significant impacts on the County’s review processes for subdivisions and site development plans:

- Planning commissions (including the County Planning Commission and Berryville Area Development Authority) are no longer authorized to be the approval authority for subdivision plats and site development plans in jurisdictions with 5,000 or more residents.
- The County must appoint a “designated agent” that is an employee or other authorized agent but that specifically cannot be a planning commission.
- Any application that has been officially submitted for approval must be sent to reviewing agencies within five business days. This gives the designated agent five business days to determine whether the application is complete and ready to be processed or incomplete and must be returned to the applicant.

- No processes or procedures can be used to delay the review of an application including requiring pre-application meetings.
- Site development plans and subdivision plats can no longer be required to be filed with special use permit applications or conditional zoning applications for concurrent review. Because the Planning Commission and Board of Supervisors may no longer serve as the approval authority for these applications, site development plan and subdivision plat review must now occur separately after the special use permit or conditional zoning application has been approved.

In response to these changes, the Board of Supervisors adopted a resolution on June 17, 2025 to implement the following interim regulatory measures to comply with SB 974:

- Initiated consideration of a text amendment to address SB 974 mandates and directed the Planning Commission to begin work immediately with Planning Staff.
- Appointed the Zoning Administrator as the “designated agent” or, in their absence, the Director of Planning.
- The “designated agent” shall be the approval authority for subdivision plats and site development plan applications. Effective July 1, 2025, these applications shall no longer be acted upon by the Planning Commission, Berryville Area Development Authority, or Board of Supervisors.
- The “designated agent” is authorized to determine the components of a complete application and to deny acceptance of any application that is incomplete. The text amendment shall also include codifying the components of a complete application for each application type.
- As of July 1, 2025, all pending subdivision plat and site development plan applications shall be subject to a new 60-day review period for applications that are under initial review, or to a new 45-day review period for applications that have been reviewed previously with deficiencies noted for correction. The designated agent is required to provide written notice to these applicants to inform them of this change.

The proposed text amendment is intended to codify the actions included in the Board’s resolution and adds several additional procedural changes caused either directly or indirectly by the new Code of Virginia requirements.

Proposed Text Amendment

This section describes the various changes that are proposed both to comply directly with Senate Bill 974’s mandates and to modify review processes that are impacted by these mandates. The full text of the amendments to the Zoning Ordinance, Subdivision Ordinance, and Definitions is included at the end of this report along with a summary of the proposed changes.

Approval Authority for Site Development Plans and Subdivision Plats

Senate Bill 974’s most significant impact is that planning commissions and governing bodies are no longer authorized to be the approval authorities for subdivision plats and site development plans. Edits to comply with this new requirement make up a large portion of the amendments to both the Zoning and Subdivision Ordinances. In Section 2 (Administration) of both ordinances, changes are made to the purposes and duties subsections for the Planning Commission,

Berryville Area Development Authority (BADA), Board of Supervisors, and Zoning Administrator to transfer authority over subdivision plats and site development plans to the Zoning Administrator, or to the Director of Planning in the Zoning Administrator's absence. There are numerous edits throughout both ordinances to replace reference to "approval authority" or the specified public bodies with "Zoning Administrator." There are also various necessary edits made to explanatory language in order to clarify that the Zoning Administrator is now the approval authority.

One new definition is added to the Definitions Section (Chapter III). "Designated agent" is added as now defined by the Code of Virginia.

Concurrent Review of Site Development Plans and Subdivision Plats; New "Concept Plan" Requirement

The change in approval authority also impacts the corresponding review processes in a number of ways, one of which being the required concurrent review of administrative applications (site development plans and subdivision plats) with legislative applications (rezoning, conditional zoning, and special use permit). Currently, site development plans are required to be filed and reviewed concurrently with special use permit applications. Site development plans and subdivision plats may be filed at the discretion of the applicant for rezoning and conditional zoning applications however if such applications are filed, they must be reviewed concurrently with the rezoning or conditional zoning application. Since the Planning Commission, Berryville Area Development Authority, and Board of Supervisors can no longer act on site development plans and subdivision plats, concurrent review of these applications can no longer be required. Applicable provisions in the review process requirements for rezoning, conditional zoning, and special use permit applications are amended to reflect this change.

It is important for legislative applications to be accompanied with some level of technical information to enable the Commission, BADA, and Board of Supervisors to review these applications effectively for ordinance compliance and Comprehensive Plan conformance. To address this need for technical information, a new "concept plan" requirement is added to the Zoning Ordinance review processes for rezoning (6.3.3B-4), conditional zoning (6.3.4B-4), and special use permits (6.3.1B-4). Concept plans require the submission of specific technical information – some of which may also be required for inclusion in a site development plan or subdivision plat – without requiring submission and approval of a site development plan or subdivision plat. The concept plan acts as a preliminary depiction of the applicant's development proposal, may be prepared by a licensed surveyor or engineer, and is not required to meet all of the requirements of a complete site development plan or subdivision plat. The concept plan is intended to be used by the advisory body and approval authority to make a decision on the application. Concept plans are added to the list of components of a complete application for rezoning, conditional zoning, and special use permit applications.

Elimination of Public Hearing Requirements

Zoning Ordinance Section 6.2.2 currently requires a public hearing to be held for all site development plan applications and Subdivision Ordinance Section 3.2.2 requires a public hearing to be held for all major subdivision applications. With the elimination of Planning Commission authority over site development plans and subdivision plats, these public hearings

can no longer be held or required. As such, reference to these currently-required public hearings are removed from the Zoning and Subdivision Ordinances.

Conditional Approvals

The review processes for site development plans, minor subdivisions, and major subdivisions currently allow for these applications to be conditionally approved by the Planning Commission. Conditional approvals are typically granted when remaining items are of an administrative nature and only require confirmation of completion by the Zoning Administrator. Since the Commission can no longer act on these applications, conditional approvals are no longer necessary and references are removed. Approvals by the Zoning Administrator will only be granted when an application fully complies with all ordinance requirements.

Elimination of Pre-Application Conference Requirements

Senate Bill 974 prohibits any site development plan and subdivision plat requirements that impede or delay the filing of an application and specifically prohibits “pre-submission conferences, meetings, or reviews.” Zoning Ordinance Section 6.2.2B-2 currently requires a pre-application conference prior to submission of a site development plan application and Subdivision Ordinance Sections 3.2.1C and 3.2.2C require pre-application conferences for minor and major subdivisions. These sections are eliminated to comply with the Senate Bill 974 mandate as are corresponding sections regarding pre-application conferences generally in Zoning Ordinance Section 2.4.1B and Subdivision Ordinance Section 2.2.1B.

Components of a Complete Application

Another change of importance is the inclusion of components of a complete application for all Zoning and Subdivision Ordinance application types. Currently, the Zoning Administrator has the authority to determine the components of a complete application. With Senate Bill 974 prohibiting barriers to the filing of an application, it is important to codify these requirements rather than allow administrative staff to determine these requirements at their discretion. The application requirements in Zoning Ordinance Section 6 (Permits and Review Processes) and Subdivision Ordinance Sections 3 (Review Processes) and 4 (Plat and Construction Plan Requirements) now reference specific required components of a complete application.

The Zoning Administrator is required to determination completeness of all site development plan and subdivision plat applications within five (5) business days of filing and to forward the application to all applicable reviewing agencies and technical consultants. Language to reflect this requirement is added to Zoning Ordinance Section 2.4.1C and Subdivision Ordinance Section 2.2.1C.

Changes Upon Resubmission

The Code of Virginia limits the scope of review of site development plans and subdivision plats once resubmitted to address outstanding issues. The Zoning Administrator may only comment on items that are in violation of ordinance or regulatory requirements upon resubmission and may not address new issues not raised in the initial review. Resubmissions with substantive changes may raise new issues not present in the original submission. Language is added to Zoning Ordinance Section 2.4.1D-2 and Subdivision Ordinance 2.2.1D-2 to clarify that if a resubmitted application has substantive changes that differ from the original application, then

the Zoning Administrator can address any deficiencies that were not identified in the original application.

Changes to Maximum Lot Size Exception Process

Current Zoning Ordinance Section 6.2.6 allows a new lot to be created in the Agricultural-Open Space-Conservation District without having to comply with the maximum lot area requirement set forth in Section 4.1.1A-1 for the following reasons:

- The lot to be subdivided contains a dwelling that was in existence prior to October 17, 1980, the date that sliding-scale zoning became effective.
- The lot is in permanent conservation easement.
- The lot contains low quality land characteristics which would make the residual lot impractical for farming; would be left with no useful purpose; or would be too small to accommodate a dwelling, drainfield, and well (to a maximum area of four acres).

The Commission is the approval authority for maximum lot size exceptions and acts on exception requests in conjunction with subdivision plat reviews. With the Commission no longer able to act on subdivision plats, continued authority over maximum lot size exceptions must be reassigned. Since the criteria for determining an exception for low quality land characteristics requires a subjective evaluation of hardship in addition to the factual determination of low quality land through the county's Land Evaluation and Site Assessment System (LESA), it was determined that this exception is more akin to a variance to be acted on by the Board of Zoning Appeals (BZA). It was also determined that since the review criteria for lots containing a dwelling in existence prior to October 17, 1980 and lots in permanent conservation easement are factually-based and objective, these exceptions can be established as exceptions to the maximum area requirement for new lots created by subdivision to be acted on by the Zoning Administrator.

The text amendment repeals current Zoning Ordinance Section 6.2.6 in its entirety. The review processes for lots with dwellings in existence prior to October 17, 1980 and lots in permanent conservation easement are moved to new Zoning Ordinance Section 4.1.1A-3 as an administrative review process acted on by the Zoning Administrator. These two exceptions would only apply to new lots in the AOC District that are being created through subdivision. The exceptions would not apply to boundary line adjustments. The exception for lots with low quality land characteristics would be moved to a new Section 6.4.2D (Variance – Review of Variances to the Agricultural-Open Space-Conservation (AOC) District Maximum Area Requirement) as a new type of variance application that is reviewed by the BZA. The language regarding important farmland determination using the LESA system is also moved to this new section.

Boundary Line Adjustments of Lots Approved with a Maximum Lot Size Exception

SB 974 does not affect the Commission's authority to review certain types of boundary line adjustment applications. One exception is Subdivision Ordinance Section 4.4.1A-4b which prohibits a residential lot approved with a maximum lot size exception to be reduced in size by boundary line adjustment without Commission approval for specific hardship reasons. It was determined that this action is more akin to a variance since such applications are only approved for specified hardship reasons. As a result, the approval authority is moved from the Commission to the Board of Zoning Appeals. Corresponding language is added to Zoning

Ordinance Section 6.4.2D-2 as a new type of variance application.

Subdivision Process Restructuring

With the elimination of public hearing requirements for major subdivisions and the shift to administrative review of all subdivision applications by the Zoning Administrator, changes are proposed to the metric by which minor and major subdivisions are distinguished.

Currently, a minor subdivision is a subdivision of a lot into a maximum of two lots or a subdivision of a lot into three lots and where one of the lots is 100 acres or greater in size. A major subdivision is the subdivision of a lot into more than two lots and where none of the new lots have an area of 100 acres or more. The only differences in the review processes for minor and major subdivisions is that major subdivisions require a public hearing to be held prior to approval by the Planning Commission and a different fee is applied.

The text amendment changes how minor and major subdivisions are distinguished by changing from the number of lots created to whether a higher level of review of the proposed development is required. If a property owner is not proposing to construct any infrastructure improvements or conduct significant land disturbance, then the subdivision will be treated as a minor subdivision. If any of these development components are proposed and require construction plan review, erosion and sediment control/stormwater management plan review, or review by the County’s technical consultants, then the subdivision would be considered a major subdivision. Subdivision of land in the FOC District would also be treated as a major subdivision in order to determine compliance with the special regulations for subdividing land in the FOC District.

The chart below describes various development scenarios and whether they would require minor or major subdivision review:

Degree of Development Proposed	Minor Subdivision	Major Subdivision
No shared infrastructure or land disturbance across lots ¹	✓	
Land disturbance across lots exceeding 10,000 square feet ²		✓
Stormwater management plan required by DEQ		✓
Two-lot shared driveway proposed	✓	
Lot added to existing shared driveway or private access easement ³	✓	✓
New private road(s) proposed or modification to existing private road requiring construction plan approval		✓
New public road(s) proposed		✓
Connection of lot(s) to public water and/or public sewer		✓
Subdivision of land in the FOC District ⁴		✓
Technical consultant review is required		✓

¹ – Subdividing lots with land disturbance for house and drainfield construction on each lot to be addressed during building permit process with agreement in lieu of plan.

- ² – Grading, clearing, or other land disturbance to prepare the lots for development/resale requiring an E&S plan and not eligible for agreement in lieu of plan.
- ³ – Addition would result in private access easement serving 3 or more lots and require compliance with private road design standards unless waived (minor subdivision if waived).
- ⁴ – FOC subdivision requirements would apply (in whole or in part) and likely require parent parcel to be examined for sensitive areas, impacting lot placement.

As noted above, subdivisions that are currently considered minor subdivisions would now be considered major subdivisions if infrastructure improvements are proposed requiring additional technical review. Likewise, some subdivisions currently classified as major subdivisions would be considered minor subdivisions if no infrastructure improvements are proposed requiring additional technical review. This change will allow the review processes and associated fees to be designed more logically and fair to future applicants.

Minor Revisions to Site Development Plans

Minor revisions to site development plans which are administratively approvable by the Zoning Administrator is currently set forth in Zoning Ordinance Section 7.2.8C. This section is moved in its entirety to Section 6.2.3 (Site Development Plan Amendment) for clarity purposes.

Traffic Impact Study Requirements

Zoning Ordinance Section 7.2.2 (Streets, Public Rights of Way, and Pedestrian Facilities) was added to the Zoning Ordinance in 2004 and requires a traffic impact study (TIS) to be provided for developments that will generate 1,000 vehicle trips per day or greater. A TIS analyzes the impacts of new development on a public road network, attempts to quantify any reduction in level of service and safety caused by the new traffic, and recommends improvements to mitigate the impacts. VDOT's threshold for requiring a TIS is 5,000 vehicle trips per day so the County's standard is significantly more stringent.

This section authorizes the Commission to require a TIS for developments with under 1,000 vehicle trips per day if the nearest intersection is near capacity or there is a high accident rate as determined by the Commission. It also gives the Commission the authority to determine the parameters of the TIS. Since the Commission can no longer review site development plans and subdivision plats, this section will need to be modified.

While localities have the authority to establish a more stringent threshold for a TIS than VDOT's minimum standards, Staff recommends defaulting to VDOT's standards for most developments. Staff does recommend including language giving the Board of Supervisors the authority to require submission of a TIS as a condition of a special use permit for any special uses that would generate less than the VDOT standard but 1,000 vehicle trips per day or more. This would be used when there is data from VDOT, the Sheriff's Office, State Police, or the County Department of Fire, EMS, and Emergency Management that the nearest intersection is near capacity or there is a high accident rate. As a matter of practice, Planning Staff with the assistance of one or more of these agencies would identify the need and offer the TIS condition as a recommendation to the Commission and Board of Supervisors.

Off-Street Parking Regulations

Zoning Ordinance Section 7.2.5F requires parking to be located on the same lot as the principal use that it serves. This section also gives the Planning Commission the authority to waive this requirement and allow off-street parking to be located off-site in conjunction with a site development plan or site development plan amendment application where onsite parking is impractical in whole or in part. This section was evaluated since the Commission can no longer act on site development plan applications and it was noted that the only area in which onsite off-street parking for commercial uses is limited is in the village of Millwood. Since the Millwood Neighborhood Commercial district has special allowances for parking set forth in Section 4.1.4C-1, Staff recommends deleting the waiver process to allow off-site off-street parking.

Private Access Easement Design Waivers.

Subdivision Ordinance Section 4.5.3B-4b provides a process for the Planning Commission to waive compliance with the private access easement design standards in Section 4.5.3C if a lot or lots are proposed to be added to a major access easement. A major access easement is a private access easement that has a minimum right of way of 30 feet but is nonconforming to the private access easement design requirements. The Commission can grant a waiver if the applicant provides written consent to the waiver by all owners of lot served by the private access easement from the public road to the proposed lots.

Since the Commission is no longer allowed to act on subdivision plats, authority must be shifted to the Zoning Administrator. Under this change, the Zoning Administrator would be responsible for verifying written consent with all applicable lot owners and would also have the Department of Fire, EMS, and Emergency Management confirm that the major access easement does not pose a hazard or obstacle to emergency vehicles responding to incidents. Once these issues are verified, the Zoning Administrator would be able to approve the waiver administratively. This is not substantively different from the current review process as the Zoning Administrator provides a recommendation on the waiver request to the Commission and would not recommend plat approval unless the waiver meets the requirements of the Subdivision Ordinance.

Court-Ordered Partitions of Land

Court-ordered partitions of land are addressed in Subdivision Ordinance Section 3.3.6 and occur when a court issues a decree to partition land to parties according to certain parameters which may not always be consistent with local zoning ordinance requirements. Per a 2022 change to the Code of Virginia, localities must recognize a subdivision created through court-ordered partition so long as the lots created do not vary from the minimum lot area, width, or frontage requirements by more than 20%.

Current Section 3.3.6 requires lots to fully comply with Zoning Ordinance requirements and does not address the 20% deviation enumerated in the Code of Virginia. Staff has included changes to comply with these requirements. Regardless of whether a deviation of up to 20% is approved, any lots that are approved by court-ordered partitions of land and do not fully comply with County Zoning Ordinance requirements would be considered nonconforming lots.

Emergency Services Notice Plat Requirement

Current Subdivision Ordinance Section 4.1.3A-3c requires the following notice to be included on the plats for all subdivisions of FOC-zoned land:

EMERGENCY SERVICES NOTICE

The rural location of and limited access of this property, combined with adverse weather conditions, may delay or totally impede the timely response of emergency service agencies (police, fire, medical) despite their best efforts. The County of Clarke will not be subject to liability claims because of a delay in response from emergency service agencies resulting from the rural location of and limited access to the property.

During the text amendment review process, it was noted that this notice is also applicable to rural AOC-zoned lots as the distance from fire and emergency services stations, design of rural roads, and the number of private access easements can result in response delays just as on FOC-zoned lots. To address this issue, Staff has added the Emergency Services Notice as a new required statements for subdivision plats of AOC-zoned lots.

Changes to Text Amendment Since Planning Commission Review:

Following the Commission’s January 9 action on the text amendment, Staff identified two minor issues regarding subdivision process restructuring that need to be clarified through additional edits to the proposed Subdivision Ordinance changes.

First, Staff noted that proposed language for when a minor subdivision application is required was inadvertently omitted from Section 3.2.1A. The section currently reads as follows:

Minor subdivision review is required for the proposed division of one existing lot into a maximum of one new lot and one residual lot. Minor subdivision review is also required for the division of one existing lot into a maximum of two new lots and one residual lot and where at least one but not more than two of the resultant lots will have an area of 100 acres or more.

The proposed language that was omitted has been added to the text amendment draft to replace the current language above in its entirety:

A minor subdivision is a subdivision of land which does not meet the requirements for a major subdivision as described in Section 3.2.2A.

Addition of this language is consistent with the Staff’s presentation of the proposed change, that minor and major subdivision review will be determined by whether a higher level of technical review is required instead of the number of new lots to be created.

Minor edits are also proposed to Section 3.2.2A (Major Subdivision, When Required) for clarification purposes. The draft reviewed by the Commission stated that one of the elements requiring major subdivision review is construction plan review for “subdivisions requiring compliance with Section 4.4.2 (Subdivision of Land in the Forestal-Open Space-Conservation (FOC) District).” Following the Commission’s January 9 action, Staff noted that this wording

can be confusing because all subdivisions of land in the FOC District require compliance with the special subdivision regulations set forth in Section 4.4.2. Inclusion of this item among the list of construction plan elements warranting major subdivision review may be incorrectly interpreted as only requiring major subdivision review of FOC District subdivisions that also require construction plan review.

The special regulations in Section 4.4.2 require the subdivision plat to identify natural and topographical characteristics of the land unique to the mountain areas including slippage soils, highly erodible soils, steep slopes, and areas of existing woody vegetation. There are also requirements for a binding development plan narrative that describes the existing woody vegetation, how no clear areas will be protected, and requires a copy of a farm management plan to be included for any agricultural clearing that is proposed. Section 4.4.2 also requires Staff to conduct a pre-construction site inspection to verify delineation and protection of no-clear areas, and also to conduct a post-construction site inspection to identify any unapproved encroachments. These requirements apply regardless of whether a construction plan is required for any of the other elements listed in proposed Section 3.2.2A. Determining compliance with Section 4.4.2 requires a higher level of technical review and oversight which justifies requiring all subdivisions of land in the FOC District to be treated as major subdivisions.

The minor proposed change removes “subdivisions requiring compliance with Section 4.4.2 (Subdivision of Land in the Forestal-Open Space-Conservation (FOC) District)” from the bulleted list of construction plan requirements. This language is now listed separately after the bulleted list to indicate that all FOC District subdivisions will require major subdivision review. Application fees (addressed separately from the Subdivision Ordinance) can be structured differently for FOC District subdivisions proposed with and without improvements requiring construction plan review.

These new proposed changes are substantially consistent with the Commission’s discussion of the text amendment and also with the advertisement that was published for the Commission’s January 9, 2026 public hearing.

Update Since the January 20, 2026 Board of Supervisors Meeting:

At the January 20, 2026 meeting, the Board of Supervisors voted to defer action on the text amendment in order to determine the outcome of House Bill 535 (HB 535). This bill would have allowed any locality with a population of 20,000 or less to use its planning commission as the designated agent for reviewing and acting on subdivision plats, site plans, and plans of development. The bill, if adopted, would give Clarke County the ability to restore review authority over these applications to the Planning Commission as the county’s population is within this new proposed threshold.

On January 23, HB 535 was recommended to be tabled by the House subcommittee reviewing it which ended its consideration for this General Assembly session. With no further pending legislation that would impact the proposed text amendment, the Board voted at their February 17 meeting to schedule public hearing for the March 17 meeting.

Comments from the Public:

The Planning Commission held an advertised public hearing on January 9, 2026 and two speakers provided comments.

Sarah Stern stated that the County should not give up its decision-making authority and should push back on the General Assembly’s action. She said she is also concerned with future General Assembly action that could affect our zoning authority over affordable housing.

Amy Grimm had questions about the County Zoning Administrator and is concerned about one person having approval authority instead of a board that can better provide information regarding County needs.

Planning Commission Recommendation:

Following a duly-advertised Public Hearing on January 9, 2026, the Commission voted 8-0-2 (Hunt, Lee absent; one seat vacant) to recommend adoption of the text amendment as presented by Staff.

Staff Recommendation:

Staff has no outstanding concerns with the adoption of this proposed text amendment.

History:

- | | |
|---------------------------|--|
| December 5, 2025. | Planning Commission voted unanimously to schedule public hearing for the January 9, 2026 Business Meeting. |
| January 9, 2026. | Planning Commission voted 8-0-2 (Hunt, Lee absent; one seat vacant) to recommend adoption of the text amendment. |
| January 20, 2026. | Board of Supervisors voted unanimously to defer action on setting a public hearing to the February 17, 2026 regular meeting, pending the outcome of HB535 at the Virginia General Assembly. |
| February 17, 2026. | Board of Supervisors voted unanimously to schedule public hearing for the March 17, 2026 meeting. |
| March 17, 2026. | Placed on the Board of Supervisors meeting agenda and advertised for public hearing. |

DRAFT FOR BOS PUBLIC HEARING (3/17/2026)

TA-25-05, SENATE BILL 974 MANDATE ZONING ORDINANCE (ARTICLE I) – SECTIONS TO BE AMENDED

SECTION 1 (General Provisions) – No changes identified

SECTION 2 (Administration)

2.2.2 Board of Supervisors

A. **Purposes and Duties.** To exercise the authority granted to the Board of Supervisors (“Board”) by the Code of Virginia, the Board shall have the following purposes and duties under this Ordinance:

1. Review and Decision. To review and act on applications for the following:

- Special Use Permit ([Section 6.3.1](#)) and Special Use Permit Amendment ([Section 6.3.2](#))
- Rezoning ([Section 6.3.3](#))
- Conditional Zoning ([Section 6.3.4](#)) and Amendment of Proffered Conditions ([Section 6.3.5](#))
- Text Amendments ([Section 6.3.6](#))
- ~~Site Development Plan ([Section 6.2.2](#)) and Site Development Plan Amendment ([Section 6.2.3](#)), when submitted in conjunction with a Special Use Permit, Rezoning, or Conditional Zoning application~~

2.2.3 Planning Commission

B. **Purposes and Duties.** The Commission shall have the following purposes and duties under this Ordinance for applications located outside of Annexation Area “B” (as defined in the [1988 Agreement Defining Annexation Rights between the Town of Berryville and Clarke County](#)):

1. Review and Decision. To review and act on applications for the following:

- ~~Site Development Plan ([Section 6.2.2](#)) and Site Development Plan Amendment ([Section 6.2.3](#))~~
- Certificate of Appropriateness in the Historic Access Corridor Overlay (HAC) District ([Section 6.2.5](#))

2. Recommendations. To review and make recommendations to the Board of Supervisors on the following:

- Special Use Permit ([Section 6.3.1](#)) and Special Use Permit Amendment ([Section 6.3.2](#))
- Rezoning ([Section 6.3.3](#))

DRAFT FOR BOS PUBLIC HEARING (3/17/2026)

- Conditional Zoning ([Section 6.3.4](#)) and Amendment of Proffered Conditions ([Section 6.3.5](#))
- Text Amendments ([Section 6.3.6](#))
- ~~Site Development Plan ([Section 6.2.2](#)) and Site Development Plan Amendment ([Section 6.2.3](#)), when submitted in conjunction with a Special Use Permit, Rezoning, or Conditional Zoning application~~

2.2.4 **Berryville Area Development Authority**

B. Purposes and Duties. The BADA shall have the following purposes and duties under this Ordinance for applications located within Annexation Area “B” (as defined in the [1988 Agreement Defining Annexation Rights between the Town of Berryville and Clarke County](#)) on properties for which no final Certificate of Occupancy has been granted:

1. **Review and Decision.** To review and act on applications for the following:

- ~~Site Development Plan ([Section 6.2.2](#)) and Site Development Plan Amendment ([Section 6.2.3](#))~~
- Certificate of Appropriateness in the Historic Access Corridor Overlay (HAC) District ([Section 6.2.5](#))

2. **Recommendations.** To review and make recommendations to the Board of Supervisors on the following:

- Special Use Permit ([Section 6.3.1](#)) and Special Use Permit Amendment ([Section 6.3.2](#))
- Rezoning ([Section 6.3.3](#))
- Conditional Zoning ([Section 6.3.4](#)) and Amendment of Proffered Conditions ([Section 6.3.5](#))
- Text Amendments ([Section 6.3.6](#))
- ~~Site Development Plan ([Section 6.2.2](#)) and Site Development Plan Amendment ([Section 6.2.3](#)), when submitted in conjunction with a Special Use Permit, Rezoning, or Conditional Zoning application~~

2.2.7 **Zoning Administrator.** This Ordinance shall be administered and enforced by the Zoning Administrator in accordance with [Va. Code §15.2-2286](#). The Zoning Administrator shall have the following purposes and duties under this Ordinance:

A. Review and Decision. To review and act on applications and requests for the following:

- [Zoning Permits \(Section 6.2.1\)](#)
- ~~[Site Development Plans \(Section 6.2.2\) as the designated agent](#)~~
- ~~[Site Development Plan Amendments \(Section 6.2.3\) as the designated agent](#)~~
- [Administrative Site Development Plans \(Section 6.2.4\)](#)
- [Pre-Harvest Plans \(Section 6.2.7\)](#)

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- [Intensive Livestock, Dairy, or Poultry Facility Development Plan \(Section 6.2.8\)](#)
- [Stream Buffer Mitigation Plan \(Section 6.2.9\)](#)
- [Zoning Administrator Letters \(Section 6.5\)](#)

For site development plans and site development plan amendment applications, the Zoning Administrator shall act as the designated agent as defined in the Code of Virginia. In the absence of the Zoning Administrator, the Director of Planning shall act as the designated agent.

2.4.1 Application Submission Requirements Generally, ~~Pre-Application Conference Requirements~~; Acceptance of Complete Application

A. Application Submission Requirements Generally.

1. Content. The Zoning Administrator is authorized to *interpret and enforce* ~~establish~~ the requirements for the content and form of each type of specific development application reviewed under this Ordinance *as described in Section 6 (Permits and Review Processes)*. ~~The Zoning Administrator may update these standards as necessary to ensure effective and efficient review.~~ It is the applicant's responsibility to ensure that an application contains sufficient information to demonstrate compliance with all applicable standards.

~~**B. Pre-Application Conference.** The purpose of a pre-application conference is to provide an opportunity for the applicant to determine the submission requirements and the procedures and regulations that will apply to an anticipated development application. A pre-application conference is also intended to provide an opportunity for the Zoning Administrator to become familiar with, and offer the applicant preliminary comments about, the anticipated development application as its scope and features relate to the regulations in this Ordinance.~~

- ~~1. Pre-Application Conference Required. A pre-application conference is required for the following applications:~~

- ~~• Special Use Permit (Section 6.3.1) and Special Use Permit Amendment (Section 6.3.2)~~
- ~~• Rezoning (Section 6.3.3)~~
- ~~• Conditional Zoning (Section 6.3.4) and Amendment of Proffered Conditions (Section 6.3.5)~~
- ~~• Text Amendments (Section 6.3.6)~~
- ~~• Site Development Plan (Section 6.2.2) and Site Development Plan Amendment (Section 6.2.3)~~

~~A pre-application conference shall be held with the Zoning Administrator no less than seven (7) days prior to filing an application.~~

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- ~~2. Required Information to Be Provided at the Pre-Application Conference. The applicant shall provide an exploratory sketch plan or conceptual drawings that show the location, general layout, and main elements of the proposed development. For text amendment and amendment of proffered conditions applications, the applicant shall provide draft text of the requested text amendment or changes to the proffered conditions. Additional information or materials may be required by the Zoning Administrator.~~
- ~~3. Effect of Pre-Application Conference. The pre-application conference is intended to facilitate the application review process and any discussions held in accordance with this section are not binding on the County. Processing times for review of development applications do not begin until a formal application is submitted and determined to be complete in accordance with Subsection C below.~~

C. **Acceptance of a Complete Application.**

1. Completeness Review. Upon receiving an application, the Zoning Administrator shall; ~~within five business days,~~ determine whether an application is complete or incomplete. A complete application is one that:

- Contains all information and materials and is in the form required by the Zoning Administrator and by this Ordinance, as required for submission of the particular type of application;
- Includes information containing sufficient detail to evaluate the application to determine whether it complies with the applicable review standards of this Ordinance; and
- Is accompanied by the fees established for this particular type of application.

Per Code of Virginia requirements, the Zoning Administrator has five (5) business days from receiving an application to determine whether it is complete and, if complete, to forward the application to all applicable Federal, State, and local reviewing agencies and departments and to the County's technical consultants for review if applicable.

2. Application Complete. Upon determining that the application is complete, the Zoning Administrator shall accept the application for review in accordance with the procedures and standards of this Ordinance and shall process the application fees that have been paid.
3. Application Incomplete. Upon determining an application to be incomplete, the Zoning Administrator shall provide the applicant with written notice of the submission deficiencies. The Zoning Administrator may also return the submission and fees to the applicant. The applicant may correct the deficiencies and resubmit the application for a *new* completeness review. The Zoning Administrator shall not process an application for further review or process the application fees until the application is determined to be complete.

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D. Application Revision.

2. *Any revisions that constitute a change of use from the originally submitted application shall require the application to be withdrawn and resubmitted as a new application including payment of all application fees. Revisions that include substantive changes which differ from the original application but do not change the use shall be treated as a new submission, allowing the Zoning Administrator to identify any deficiencies found in the review process that were not commented on in the original submission.*

~~Any revisions that constitute significant substantive changes and that materially alter the application that was originally submitted shall require that application to be withdrawn and resubmitted. The revised application shall be treated as a new submission that is subject to application fees and review deadlines.~~

2.5 PUBLIC HEARINGS

Public hearings held by advisory or decision-making bodies for certain application types as noted in the table below shall be held in accordance with [Va. Code §15.2-2204](#). The Zoning Administrator shall be responsible for preparing and effecting the Public Hearing notification, including all required advertisements, mailings to adjoining and affected property owners, and posting of County notification signage on the subject property.

TABLE 2.5[1], Required Public Hearings

	Planning Commission	Berryville Area Development Authority	Board of Supervisors	Historic Preservation Commission	Board of Zoning Appeals
Site Development Plan (or Amendment of)	PH	PH**	PH*		
Certificate of Appropriateness, Historic (H) District				PH**	
Certificate of Appropriateness, Historic Overlay (HAC) District	PH				
Special Use Permit (or Amendment of)	PH	PH*	PH		
Rezoning (or Proffer Amendment)	PH	PH*	PH		
Text Amendment	PH		PH		

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Variance					PH
Appeal					PH

PH – Public Hearing required

~~* -- For site development plans filed with a special use permit or rezoning application only.~~

* -- For applications involving lots located within the Berryville Annexation Area only.

** -- For applications requiring a building permit only.

SECTION 3 (Sliding-Scale Zoning) – No changes identified

SECTION 4 (Zoning Districts)

4.1.1 Agricultural-Open Space-Conservation (AOC) District

A. Lot Density and Dimensional Requirements

3. Exception to maximum area requirement. *An exception to the maximum area requirement for a lot created through subdivision may be granted by the Zoning Administrator for the following reasons:*

a. Exception for dwelling existing prior to October 17, 1980. *A lot may be created with an exception to the maximum area requirement if the parent parcel contains a dwelling that existed prior to October 17, 1980 and is recognized as a farmstead or tenant house per Zoning Ordinance Section 3.4 (Exceptions to Allocation). Such lots may be created so long as:*

- Their size and location does not create low quality land characteristics as described in subsection 4 below on any other lots created as a result of the division, or*
- The lots created do not have zero dwelling unit rights remaining.*

This exception shall not be applied more than once per lot existing on March 20, 2001 containing one or more such pre-1980 dwellings. The maximum lot size exception may be applied to any lot created in the subdivision.

b. Exception for lot in permanent conservation easement. *A lot may be created with an exception to the maximum area requirement if the parent parcel has been placed under permanent easement granted to the Clarke County Conservation Easement Authority, the Virginia Board of Historic Resources, the Virginia Outdoors Foundation, and/or any other entity authorized to hold*

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an open-space easement pursuant to the Virginia Open-Space Land Act (Va. Code §10.1-1700 et seq.). Additional requirements include:

- *All lots in the proposed subdivision shall be located in a manner consistent with the physiographic and/or historic characteristics of the property as recommended by the primary holder of the conservation easement.*
- *For lots that were placed in an easement held or co-held by the Clarke County Conservation Easement Authority (recorded after November 19, 2013), said easement must have included the termination of at least one (1) dwelling unit right in order for the property to qualify for a maximum lot size exception under this paragraph.*

4. AOC-zoned lots 4 acres or less in size. No residential lot of 4 acres in size or less and zoned Agricultural-Open Space-Conservation (AOC) may be increased in size above 4 acres through boundary line adjustment without approval *of a variance* by the *Board of Zoning Appeals ~~Planning Commission~~* for one or both of the following hardship reasons:

- To correct a minor encroachment of a driveway, fence, or other structure onto an adjoining lot to a maximum of 10% of the total area of the lot
- To repair or replace a failing onsite sewage disposal system located on the lot

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SECTION 5 (Uses)

Wireless Communication Facility (WCF)

Use Regulations:

2. Classes of Wireless Communication Facilities.

Class	Maximum Height	Approval Authority	Site Development Plan Required?	Engineering Review Required?	Permitted Design Type(s)
1	50 feet	Zoning Administrator	Yes*	Yes*	Monopole or stealth with surface-mounted antennas
2	80 feet	<i>Zoning Administrator Planning Commission</i>	Yes	Yes	Monopole or stealth with surface-mounted antennas
3	120 feet	Board of Supervisors	Yes	Yes	Monopole
4	199 feet	Board of Supervisors	Yes	Yes	Monopole
5	Per State law	Zoning Administrator	Yes*	Yes*	Per State law
6	80 or 100 feet	Zoning Administrator	No	No	Monopole or lattice

* Depending on the nature and design of the Class 1 or Class 5 WCF, the Zoning Administrator has the discretion to waive certain site development plan requirements. Review by engineering consultant(s) is subject to the Zoning Administrator’s discretion.

4. By-right uses. The uses listed in this subsection are deemed to be by-right uses subject to review and approval of a site development plan demonstrating compliance with this section, the Wireless Communication Facility (WCF) Design Standards in [Section 7.3](#), and other applicable sections of the Zoning Ordinance:

c. Class 2 WCFs. The site development plan shall be subject to administrative review and approval by the *Zoning Administrator Planning Commission* including third-party engineering review.

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SECTION 6 (Permits and Review Processes)

6.2.1 Zoning Permit (ZP)

B. General Review Procedures

2. *The following items shall be filed to constitute a complete zoning permit application:*

- ***Zoning permit application form to include:***
 - ***Property location***
 - ***Name, address, and signature of property owner and applicant (if different from property owner)***
 - ***Project description***
 - ***Proposed dimensions including setbacks and height of structure(s)***
 - ***Site sketch***
- ***Any other pertinent information required by the Zoning Administrator to determine compliance with ordinance requirements***
- ***Application fee***

<p>6.2.2</p>	<p>SITE DEVELOPMENT PLAN (SP)</p> <p>The purpose of these requirements is to promote the orderly development of certain activities in the County and to insure that such activities are developed in a manner harmonious with surrounding properties and in the interest of public health, safety, and welfare. The site <i>development</i> plan shall be used to review:</p> <ul style="list-style-type: none"> • A project's compatibility with its environment, • The ability of proposed traffic circulation systems to provide for safe and convenient movement of vehicles and pedestrians, • The quantity, quality, utility, and type of the project's community facilities, and • The location and adequacy of the provision for drainage and utilities. 	
<p><u>Approval Authority:</u> <i>Zoning Administrator or Director of Planning in absence of the Zoning Administrator</i></p> <ul style="list-style-type: none"> • Planning Commission (for areas outside of the Berryville Annexation Area) • Berryville Area Development Authority (for areas within the Berryville Annexation Area) • Board of Supervisors if in conjunction with a rezoning, conditional zoning, or special use permit application 	<p><u>Time Limit for Review:</u> Yes – See Subsection B</p>	

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<u>Pre-Application Conference Required:</u> No Yes—See Subsection B	<u>Public Hearing Required:</u> No Yes—See Subsection B
<u>Other Applicable Deadlines:</u> None Submission of materials prior to Public Hearing—See Subsection B	<u>Expiration:</u> Yes – See Subsection D

B. Review Procedures.

1. Approval Authority. The approval authority for site development plan review shall be ~~the Zoning Administrator or the Director of Planning in absence of the Zoning Administrator.~~ as set forth below:
 - ~~a. The Planning Commission shall be the approval authority for proposed site development plans on lots located outside of the Berryville Annexation Area.~~
 - ~~b. The Berryville Area Development Authority shall be the approval authority for proposed site development plans on lots located inside the Berryville Annexation Area.~~
 - ~~c. The Board of Supervisors shall be the approval authority for all proposed site development plans that are filed for review in conjunction with an application for rezoning, conditional zoning, or special use permit. In such cases, the Planning Commission or Berryville Area Development Authority shall review and provide recommendations on actions to be taken on the site development plan.~~
- ~~2. Pre-Application Conference Required. A Pre-Application Conference per **Section 2.4.1B** is required for site development plan applications.~~
2. Application Filing, Processing, and Review by Approval Authority.
 - a. An application for review of a site development plan shall be made by submitting a complete application and the applicable fee to the Zoning Administrator, who will review the application for completeness in accordance with **Section 2.4.1C (Acceptance of a Complete Application)**. ~~The required components of a site development plan are set forth in **Section 7.2.1 (Site Development Plan Requirements)**.~~
 - ~~b. After receipt of a complete application, the Zoning Administrator shall refer the matter to the approval authority for initial review at its next regular meeting and shall schedule a Public Hearing in accordance with **Section 2.5 (Public Hearings)**.~~

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- b.* ~~After receipt of a complete application, the Zoning Administrator shall forward copies of the application and supporting documents to all applicable agencies, departments, and technical consultants and officials for written comments and recommendations. After receiving such comments and recommendations, the Zoning Administrator shall prepare a report for the approval authority.~~
- ~~d.~~ ~~The Applicant shall provide any new or revised materials demonstrating compliance with any technical requirements no less than 14 days prior to the first Public Hearing and no less than 10 days prior to any continued Public Hearing. Technical requirements include any regulations governing site development such as lot or building requirements and plan submission requirements. Any new or revised materials provided after the deadlines referenced above shall be not considered by the approval authority at the scheduled meeting.~~
- c.* ~~The Zoning Administrator approval authority shall act to approve, approve with conditions, or disapprove the site development plan application within 60 days of its first meeting to review the application unless the applicant requests a deferral in accordance with [Section 2.4.3 \(Deferral of Application Review\)](#). If the application is disapproved and the applicant files a corrected application, the Zoning Administrator approval authority shall act to approve, approve with conditions, or disapprove the corrected application within 45 days of its first meeting to review the application unless the applicant requests a deferral in accordance with [Section 2.4.3](#).~~
- ~~4.~~ ~~Submission of Final Plan for Signature. An approved site development plan shall become null and void if a final plan is not submitted within six months from the date of approval by the approval authority, in a form complying with all conditions established by the approval authority, to the approval authority's chair and the Zoning Administrator for signature. The approval authority may extend this time limit upon written request of the applicant.~~

C. Review Criteria and Regulations.

3. ~~Action by the Zoning Administrator Approval Authority.~~
- a. ~~The Zoning Administrator approval authority shall approve the site development plan if they find it finds that the plan meets the requirements of this Ordinance, the [Code of Clarke County](#), the [Code of Virginia](#), and any other applicable State or Federal regulations.~~
- b. ~~To further the intent of this Section and to protect public safety and general welfare, no site development plan shall be approved until the Zoning Administrator approval authority is assured that proposed improvements will be constructed in compliance with the [Section 7.2 \(Site Development Plan Design Standards and Development Regulations\)](#), and all County, State, and Federal~~

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requirements. Proposed improvements include but are not limited to:

- Streets, rights-of-way, and pedestrian facilities
- Stormwater management facilities
- Utilities and utility easements
- Public water and/or public sewer systems
- Onsite wells and/or onsite sewage disposal systems

~~e. The approval authority may condition final approval of the site development plan upon the applicant making certain administrative changes or modifications to the plan with such conditions to be stated in the approval authority's motion for conditional approval of the plan. If conditional approval is granted, authority shall be delegated to the Zoning Administrator to determine compliance with the approval authority's conditions.~~

c. If the **Zoning Administrator** ~~approval authority~~ disapproves a site development plan, **they** ~~it~~ shall state the reasons for such denial in the approval authority's motion to disapprove the plan. The reason for disapproval shall identify deficiencies in the plan that caused the disapproval, and shall identify, to the extent practicable, modifications or corrections that will permit approval of the site plan.

D. Expiration. Unless a final Certificate of Occupancy has been issued for the structures shown on the plan, approval of a site development plan shall expire after five years from the date that the ~~chair of the approval authority and~~ Zoning Administrator signed the final plan. Upon written request by the applicant filed with the Zoning Administrator prior to expiration of the plan, the approval authority may grant one or more extensions of such approval for additional periods as the approval authority determines to be reasonable. Such extensions shall take into consideration:

- Whether a building permit has been issued,
- Whether substantial construction work has been completed,
- The size and phasing of the proposed development, and
- The laws, ordinances, and regulations in effect at the time of the request for an extension.

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<p>6.2.3 SITE DEVELOPMENT PLAN AMENDMENT (SPA) This process ensures that substantive changes to buildings, developed sites, and uses which were previously approved by the site development process are reviewed for compliance, and that an amended plan approving these changes is distributed to all applicable agencies and departments.</p>	
<p><u>Approval Authority:</u> <i>Zoning Administrator or Director of Planning in absence of the Zoning Administrator</i> <ul style="list-style-type: none"> • Planning Commission (for areas outside of the Berryville Annexation Area) • Berryville Area Development Authority (for areas within the Berryville Annexation Area) • Board of Supervisors if in conjunction with a rezoning, conditional zoning, or special use permit application </p>	<p><u>Time Limit for Review:</u> Yes – See Subsection B</p>
<p><u>Pre-Application Conference Required:</u> <i>No Yes—See Subsection B</i></p>	<p><u>Public Hearing Required:</u> <i>No Yes—See Subsection B</i></p>
<p><u>Other Applicable Deadlines:</u> <i>None</i> Submission of materials prior to Public Hearing—See Subsection B</p>	<p><u>Expiration:</u> Yes – See Subsection D</p>

B. Review Procedures *and Minor Revisions.*

1. ***Review Procedures.*** The review procedures for a site development plan amendment application shall be the same as the procedures for review of a site development plan application in [Section 6.2.2B \(Site Development Plan Review Procedures\)](#).
2. ***Minor Revisions.*** *The Zoning Administrator may approve changes to an approved site development plan without requiring a new application for site development plan amendment which the Zoning Administrator determines are minor revisions of a non-substantive or editorial nature. Minor revisions approved by the Zoning Administrator shall be documented by the applicant on revised plan sheets and shall be retained with all copies of the approved site development plan. The Zoning Administrator shall include a written justification for approving the minor revisions in the documentation for the site development plan.*

- D. Expiration.** Unless a final Certificate of Occupancy has been issued for the structures shown on the plan, approval of an amended site development plan shall expire after five years from the date that the ~~chair of the approval authority and~~ Zoning Administrator signed the final plan. The process for extending the plan approval shall be the same as

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the process for site development plan as set forth in [Section 6.2.2D \(Site Development Plan Expiration\)](#).

6.2.4 Administrative Site Development Plan (ASP)

D. Expiration. Unless a final Certificate of Occupancy has been issued for the structures shown on the plan, approval of an administrative site development plan shall expire after five years from the date that the ~~chair of the approval authority and~~ Zoning Administrator signed the final plan. Upon written request by the applicant, the Zoning Administrator may grant one or more extensions of such approval for additional periods as the approval authority, at the time the extension is granted, determines to be reasonable. Such extensions shall take into consideration:

- Whether a building permit has been issued,
- Whether substantial construction work has been completed,
- The size and phasing of the proposed development, and
- The laws, ordinances, and regulations in effect at the time of the request for an extension.

6.2.5 Certificate of Appropriateness (CA)

A. When Required

3. *The following items shall be filed to constitute a complete certificate of appropriateness application:*

- *Application form to include:*
 - *Property location*
 - *Name, address, and signature of property owner and applicant (if different from property owner)*
 - *Project description*
- *Plans, exhibits, and other documentation demonstrating compliance of the design of the proposed building, structure, or sign with the design criteria of the Historic (H) Overlay District or the Historic Access Corridor (HAC) Overlay District as applicable*
- *Any other pertinent information required by the Zoning Administrator to determine compliance with ordinance requirements*
- *Application fee*

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6.2.6 Repealed [INSERT ADOPTION DATE]

6.2.6	MAXIMUM LOT SIZE EXCEPTION (MLSE) This process, applicable only to the AOC District, allows for a new lot to be created through the Minor or Major Subdivision review process that exceeds the maximum lot size requirement for the District so long as certain criteria are met as described below.	
<u>Approval Authority:</u> Planning Commission	<u>Time Limit for Review:</u> Yes—see Minor and Major Subdivision review requirements (<u>Article II, Subdivision Ordinance, Section 3.2</u>)	
<u>Pre Application Meeting Required:</u> Yes—see Minor and Major Subdivision review requirements (<u>Article II, Subdivision Ordinance, Section 3.2</u>)	<u>Public Hearing Required:</u> For Major Subdivision applications only (<u>Article II, Subdivision Ordinance, Section 3.2.2</u>)	
<u>Other Applicable Deadlines:</u> Yes—see Minor and Major Subdivision review requirements (<u>Article II, Subdivision Ordinance, Section 3.2</u>)	<u>Expiration:</u> Yes—See <u>Subsection D</u>	

~~A. — **When Required.** In the AOC District only, a maximum lot size exception is required in order to allow the maximum lot size requirement for the district to be exceeded when creating a new lot through the minor or major subdivision review processes.~~

~~B. — **Review Procedures.**~~

~~An application for maximum lot size exception shall be filed in conjunction with an application for a minor or major subdivision (Article II, Subdivision Ordinance, Section 3.2, Subdivision Review Processes) for a new lot or lots proposed to exceed the maximum lot size requirement in the AOC District. The maximum lot size exception application shall be reviewed concurrently and in accordance with the review procedures for a minor or major subdivision application.~~

~~C. — **Review Criteria and Regulations.**~~

- ~~1. — Procedures for maximum lot size exceptions. A lot may qualify for a maximum lot size exception by meeting one of the following criteria described in subsections 2-4 below.~~
- ~~2. — Exception for dwelling existing prior to October 17, 1980. A lot with a dwelling that existed prior to October 17, 1980 and is recognized as a farmstead or tenant house per Zoning Ordinance Section 3.4 (Exceptions to Allocation) may be subdivided with a maximum lot size exception. Such lots may be created so long as:~~

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- a. ~~Their size and location does not create low quality land characteristics as described in subsection 4 below on any other lots created as a result of the division, or~~
- b. ~~If the lot created has zero dwelling unit rights remaining.~~

~~This exception shall not be applied more than once per lot existing on March 20, 2001 containing one or more such pre-1980 dwellings. The maximum lot size exception may be applied to any lot created in the subdivision.~~

3. ~~Exception for lot in permanent conservation easement. A lot may be created with a maximum lot size exception if the parent parcel has been placed under permanent easement granted to the Clarke County Conservation Easement Authority, the Virginia Board of Historic Resources, the Virginia Outdoors Foundation, and/or any other entity authorized to hold an open space easement pursuant to the Virginia Open Space Land Act (Va. Code §10.1-1700 et seq.). Additional requirements include:~~

- a. ~~All lots in the proposed subdivision shall be located in a manner consistent with the physiographic and/or historic characteristics of the property as recommended by the primary holder of the conservation easement.~~
- b. ~~For lots that were placed in an easement held or co-held by the Clarke County Conservation Easement Authority (recorded after November 19, 2013), said easement must have included the termination of at least one (1) dwelling unit right in order for the property to qualify for a maximum lot size exception under this paragraph.~~

4. ~~Exception for low quality land. A lot may be created with a maximum lot size exception if it is determined by the Planning Commission prior to subdivision approval that the lot to be subdivided is of sufficiently low quality as described below to justify using more than the maximum lot area of low quality land for a proposed lot.~~

- a. ~~Low quality land characteristics. Low quality land contains one or more of the following characteristics:~~
 - ~~Physical features or small size or irregular shape of potential residual lot such that efficient use of farm machinery would not be possible or that said land would be left to no useful purpose; or~~
 - ~~Combination of physical features and setting such that the maximum lot size allowed in this section for a lot proposed in a minor or major subdivision is too small to accommodate a dwelling, drainfield, and well so as to meet the minimal applicable health standards and provided that no lot may be created or increased in area so as to exceed a maximum area of four acres. An application for a maximum lot size exception, submitted under this section, shall be accompanied by a written statement prepared by the Virginia Department of Health or an onsite soil evaluator (OSE) (as~~

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~~defined in County Code Chapter 143, Septic Systems) stating why the proposed lot could not accommodate a dwelling, drainfield, and well meeting Virginia and Clarke County health standards within the maximum lot size allowed in this section. Lots proposed in a major subdivision are not eligible for a maximum lot size exception under this section; or~~

- ~~• Land that is part of a lot where such land has been determined by the Zoning Administrator not to be important farmland.~~

~~b. Important farmland determination. The Clarke County Land Evaluation and Site Assessment (LESA) System, edition dated March 24, 1992 shall be used as the primary decision-making tool to evaluate maximum lot size exception requests under this subsection. This tool is maintained for public use, inspection and information in the Clarke County Department of Planning and is hereby incorporated into and made a part of this Ordinance as if fully set out herein. A report on the result shall be forwarded to the Commission. The Commission shall designate as Important Farmland any lands with the following characteristics:~~

Lot Size	LESA Rating
Under 40 Acres	72% or More
40-129.99 Acres	68% or More
130 Acres or More	64% or More

~~In instances where the LESA score of a lot is within four points above or below the minimum LESA rating that qualifies a lot as Important Farmland, the Commission may grant or deny a maximum lot size exception, depending on the evidence presented indicating whether the subject land is important farmland. In these instances, the Commission may consider:~~

- ~~• The extent that the proposed lot exceeds the maximum lot size allowed in this section;~~
- ~~• Whether the LESA System accurately reflects the suitability of the subject lot for continuing agricultural use; and~~
- ~~• Factors reasonably related to agricultural suitability of the subject lot that are not appropriately addressed by the LESA System, such as physical features.~~

~~The maximum allowable lot size shall be determined using the following chart however, in any instance, the Commission may set a maximum lot size less than specified in the chart:~~

LESA rating for important farmland	Maximum lot size
Within 4 points above or below minimum LESA rating, lot is 20 acres or larger	4 acres
Between 5 and 12 points below the minimum LESA rating, lot is 20 acres or larger	6 acres

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12 or more points below the minimum LESA rating OR the lot is less than 20 acres	As determined by the Commission
---	--

~~5. No lot approved with a maximum lot size exception shall be reduced in size by boundary line adjustment without approval by the Planning Commission for one or both of the following hardship reasons:~~

- ~~• To correct an encroachment of a driveway, onsite sewage disposal system, or a structure located on an adjacent lot~~
- ~~• To aid in the repair or replacement of a failing onsite sewage disposal system located on an adjacent lot~~

~~**D. Expiration.** A maximum lot size exception approval by the Planning Commission shall remain valid for so long as the Commission's approval of the accompanying minor or major subdivision application remains valid in accordance with Article II, Subdivision Ordinance, Section 3.2 (Subdivision Review Processes).~~

~~**E. Appeal.** An applicant aggrieved by a decision of the Planning Commission on a maximum lot size exception request may appeal any decision or designation made under the provisions of this Section to the Board of Supervisors. Such appeal shall be filed with the Zoning Administrator within 30 days of the date of action by the Planning Commission.~~

6.2.7 Pre-Harvest Plan (PHP)

B. Review Procedures

~~4. *The following items shall be filed to constitute a complete pre-harvest plan application:*~~

- ~~• *Application form to include:*~~
 - ~~○ *Property location*~~
 - ~~○ *Name, address, and signature of property owner and applicant (if different from property owner)*~~
 - ~~○ *Project description*~~
- ~~• *Forestry management plan*~~
- ~~• *Any other pertinent information required by the Zoning Administrator to determine compliance with ordinance requirements*~~

6.2.8 Intensive Livestock, Dairy, or Poultry Facility Development Plan (IDLDP)

B. Review Procedures

1. Applicant submits a complete facility development plan application and required fees to the Zoning Administrator. *The following items shall be filed to constitute a complete IDLP application:*

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- *Application form to include:*
 - *Property location*
 - *Name, address, and signature of property owner and applicant (if different from property owner)*
 - *Project description*
- *Information and materials described in Subsection C (Review Criteria and Regulations) below*
- *Application fee*

6.2.9 Stream Buffer Mitigation Plan (SBP)

B. Review Procedures

4. *The following items shall be filed to constitute a complete SBP application:*

- *Application form to include:*
 - *Property location*
 - *Name, address, and signature of property owner and applicant (if different from property owner)*
 - *Project description*
- *Mitigation plan containing elements described in Subsection C (Review Criteria and Regulations) below*
- *Any other pertinent information required by the Zoning Administrator to determine compliance with ordinance requirements*
- *Application fee*

6.3.1 Special Use Permit (SUP)

B. Review Procedures

3. Application Filing, Processing, and Review by Approval Authority.

- ~~a. An application for special use permit review shall also be accompanied by an application for site development plan review per Section 6.2.2 (Site Development Plan). Such applications shall be reviewed concurrently and acted upon by the Board of Supervisors.~~
- a. An application for ~~concurrent~~ review of a special use permit ~~and site development plan~~ shall be made by submitting *a* complete applications and the applicable fees to the Zoning Administrator, who will review the applications for completeness in accordance with Section 2.4.1C (Acceptance of a Complete Application). *The following items shall be filed to constitute a complete special use permit application:*
 - *Special use permit application form to include:*
 - *Property location*

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- *Name, address, and signature of property owner and applicant (if different from property owner)*
 - *Project description*
 - *Explanation of the proposed special use's conformity to the special use permit review factors listed in Subsection C2*
 - *Concept plan as described in Subsection 4*
 - *Any other pertinent information required by the Zoning Administrator to determine compliance with ordinance requirements*
 - *Application fee*
- b.** After receipt of a complete application, the Zoning Administrator shall forward ~~copies of~~ the applications and supporting documents to all applicable agencies, *departments, and technical consultants* ~~and officials~~ for written comments and recommendations. After receiving such comments and recommendations, the Zoning Administrator shall prepare a report for the advisory body and Board of Supervisors.
- c.** The Zoning Administrator shall refer the applications to the advisory body for initial review at the next regularly-scheduled business meeting following the preceding application filing deadline. The advisory body shall conduct the initial review of the applications and determine whether to schedule a Public Hearing in accordance with [Section 2.5 \(Public Hearings\)](#) at the next regularly-scheduled business meeting.
- d.** The advisory body shall conduct the Public Hearing prior to taking formal action on the applications. The applicant shall provide any new or revised materials demonstrating compliance with any technical requirements no less than 14 days prior to the first Public Hearing and no less than 10 days prior to any continued Public Hearing. Technical requirements include any regulations governing site development such as lot or building requirements and plan submission requirements. Any new or revised materials provided after the deadlines referenced above shall be not considered by the approval authority at the scheduled meeting.
- e.** Formal action shall be taken within 100 days of the date that the advisory body conducts the initial review of the applications, and shall be in the form of a recommendation to the Board of Supervisors.
- f.** Following action by the advisory body, the Zoning Administrator shall refer the applications to the Board of Supervisors for initial review at the next regularly-scheduled business meeting following the preceding application filing deadline. The Board shall conduct the initial review of the applications and determine whether to schedule a Public Hearing in accordance with [Section 2.5](#) at the next regularly-scheduled business meeting.

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- g.** The Board shall conduct the Public Hearing prior to taking formal action on the applications. The Applicant shall provide any new or revised materials demonstrating compliance with any technical requirements no less than 14 days prior to the first Public Hearing and no less than 10 days prior to any continued Public Hearing. Technical requirements include any regulations governing site development such as lot or building requirements and plan submission requirements. Any new or revised materials provided after the deadlines referenced above shall be not considered by the approval authority at the scheduled meeting.
- h.** Formal action shall be taken by the Board within one year of the date that the advisory body conducts the initial review of the applications. Formal action shall be to approve, approve with conditions, or disapprove the special use permit ~~and site development plan~~ applications. ~~If a site development plan application is disapproved and the applicant files a corrected application, the Board shall act to approve, approve with conditions, or disapprove the corrected application within 45 days of its first meeting to review the application unless the applicant requests a deferral in accordance with Section 2.4.3 (Deferral of Application Review).~~
- 4.** ***Concept Plan.** Unless otherwise required by use regulations, a concept plan prepared by a licensed surveyor or engineer containing the following minimum required existing and proposed elements, if applicable, shall be submitted with a special use permit application:*
- *Boundary survey of the subject property including surveyed location of the area where the special use will be conducted if only on a portion of the subject property*
 - *General location of the following site features, if applicable:*
 - *Perennial and intermittent streams and sinkholes*
 - *Flood Plain Overlay District (FP)*
 - *Buildings and structures*
 - *Parking and outdoor lighting*
 - *Permanent stormwater management features*
 - *Public roads, private access easements, driveways, and access points to existing public roads and private access easements*
 - *Proposed subdivisions and/or boundary line adjustments*
 - *Private wells*
 - *Onsite sewage disposal systems and reserve areas*
 - *Waste storage areas, grease traps, and similar features*
 - *Buffers and preservation areas*
 - *Location of utility easements and infrastructure for public water and public sewer including shared private systems*
- 5.** Special Use Permit Conditions. The Board of Supervisors may impose conditions on an approval of the special use permit to address the review factors enumerated in Subsection C-1 below, or to address any other factors that may be unique to the

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application under review. Any conditions adopted by the Board shall be provided in writing to the applicant and the property owner (if different from the applicant) within 7 business days of the Board's approval of the permit. Acceptance of the conditions shall be provided by the applicant and property owner in accordance with [Subsection C-3](#) below.

~~5. **Submission of Final Plan for Signature.** A site development plan approved in conjunction with a special use permit shall become null and void if a final plan is not submitted, in a form complying with all conditions established by the Board of Supervisors, to the Board chair and the Zoning Administrator for signature within six months from the date of approval by the approval authority. The Board may extend this time limit upon written request of the applicant.~~

6.3.2 Special Use Permit Amendment (SUP-A)

B. Review Procedures. The review procedures for a special use permit amendment application shall be the same as the procedures for review of a special use permit application in [Section 6.3.1B \(Special Use Permit Review Procedures\)](#). ~~An application for site development plan amendment per [Section 6.2.3 \(Site Development Plan Amendment\)](#) shall be filed and reviewed concurrently with the special use permit amendment application. The Zoning Administrator may waive the requirement for site development plan amendment application if the proposed change to the special use will not require any changes to the approved site development plan.~~

6.3.3 Rezoning (RZ)

B. Review Procedures – Rezoning by Applicant

3. Application Filing, Processing, and Review by Approval Authority.

a. A rezoning application shall be made by submitting a complete application and the applicable fees to the Zoning Administrator, who will review the applications for completeness in accordance with [Section 2.4.1C \(Acceptance of a Complete Application\)](#). ~~A rezoning application shall be accompanied by a survey plat showing the boundaries of the subject property or properties and the boundaries of the area to be rezoned. A site development plan or subdivision application is not required to be filed in conjunction with a rezoning application. The following items shall be filed to constitute a complete rezoning application:~~

- ***Rezoning application form to include:***
 - ***Property location***
 - ***Name, address, and signature of property owner and applicant (if different from property owner)***
 - ***Project description***
 - ***Explanation of the proposed rezoning's conformity to the rezoning review factors listed in Subsection D2***

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- *Concept plan as described in Subsection 4*
 - *Survey plat showing the boundaries of the subject property or properties and the boundaries of the area to be rezoned.*
 - *Any other pertinent information required by the Zoning Administrator to determine compliance with ordinance requirements*
 - *Application fee*
4. **Concept Plan.** *A concept plan prepared by a licensed surveyor or engineer containing the following minimum required existing and proposed elements, if applicable, shall be submitted with a rezoning application:*
- ***General location of the following site features, if applicable:***
 - *Perennial and intermittent streams and sinkholes*
 - *Flood Plain Overlay District (FP)*
 - *Buildings and structures*
 - *Parking and outdoor lighting*
 - *Permanent stormwater management features*
 - *Public roads, private access easements, driveways, and access points to existing public roads and private access easements*
 - *Proposed subdivisions and/or boundary line adjustments*
 - *Private wells*
 - *Onsite sewage disposal systems and reserve areas*
 - *Waste storage areas, grease traps, and similar features*
 - *Buffers and preservation areas*
 - *Location of utility easements and infrastructure for public water and public sewer including shared private systems*

6.3.4 Conditional Zoning (CZ)

B. Review Procedures.

3. Application Filing, Processing, and Review by Approval Authority.

- a. A conditional zoning application shall be made by submitting a complete application and the applicable fees to the Zoning Administrator, who will review the applications for completeness in accordance with [Section 2.4.1C \(Acceptance of a Complete Application\)](#). *The following items shall be filed to constitute a complete conditional zoning application:*
- A survey plat showing the boundaries of the subject property or properties and the boundaries of the area to be rezoned.
 - Proffered conditions provided in writing and signed by the applicant and property owner(s) in a format as required by the Zoning Administrator. In the event that these proffered conditions are amended, including addition or deletion of conditions, during the review process, a complete list of

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revised proffered conditions shall be provided in writing with required signatures as noted above.

- ***Rezoning application form to include:***
 - ***Property location***
 - ***Name, address, and signature of property owner and applicant (if different from property owner)***
 - ***Project description***
 - ***Explanation of the proposed conditional zoning's conformity to the rezoning review factors listed in Section 6.3.3D-2***
 - ***Concept plan as described in Subsection 4***
- ***Any other pertinent information required by the Zoning Administrator to determine compliance with ordinance requirements***
- ***Application fee***

4. ***Concept Plan. A concept plan prepared by a licensed surveyor or engineer containing the following minimum required existing and proposed elements, if applicable, shall be submitted with a conditional zoning application:***

- ***General location of the following site features, if applicable:***
 - ***Perennial and intermittent streams and sinkholes***
 - ***Flood Plain Overlay District (FP)***
 - ***Buildings and structures***
 - ***Parking and outdoor lighting***
 - ***Permanent stormwater management features***
 - ***Public roads, private access easements, driveways, and access points to existing public roads and private access easements***
 - ***Proposed subdivisions and/or boundary line adjustments***
 - ***Private wells***
 - ***Onsite sewage disposal systems and reserve areas***
 - ***Waste storage areas, grease traps, and similar features***
 - ***Buffers and preservation areas***
 - ***Location of utility easements and infrastructure for public water and public sewer including shared private systems***

~~A site development plan or subdivision application is not required to be filed in conjunction with a conditional zoning application. If an applicant voluntarily files a site development plan or subdivision plat application per Subdivision Ordinance Section 3.2 for concurrent review with a conditional zoning application, the Board of Supervisors shall be the approval authority for that application.~~

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6.3.5 Amendment of Proffered Conditions (APC)

B. Review Procedures.

3. Application Filing, Processing, and Review by Approval Authority.

- a. An application to amend proffered conditions shall be made by submitting a complete application and the applicable fees to the Zoning Administrator, who will review the applications for completeness in accordance with [Section 2.4.1C \(Acceptance of a Complete Application\)](#). Such application shall be accompanied by proffered conditions proposed for addition, deletion or amendment, provided in writing and signed by the applicant and property owner(s) in a format as required by the Zoning Administrator. In the event that these proffered conditions are amended further during the review process, a complete list of revised proffered conditions shall be provided in writing with required signatures as noted above.

A site development plan or subdivision application is not required to be filed in conjunction with an amendment of proffered conditions application. ~~If an applicant voluntarily files a site development plan or subdivision plat application per [Subdivision Ordinance Section 3.2](#) for concurrent review with an amendment of proffered conditions application, the Board of Supervisors shall be the approval authority for that application.~~

6.3.6 Text Amendment (TA)

B. Review Procedures

3. Application Filing, Processing, and Review by Approval Authority.

- a. A text amendment application shall be made by submitting a complete application and the applicable fees to the Zoning Administrator, who will review the applications for completeness in accordance with [Section 2.4.1C \(Acceptance of a Complete Application\)](#). A text amendment application shall be accompanied by the following:

- ***A completed text amendment application and application fee***
- A written description of the purpose for the text amendment including an explanation of how the text amendment is not in conflict with the Comprehensive Plan or implementing component plans
- A draft of the proposed text amendment language

The applicant shall also indicate in the application whether they are requesting the Commission, BADA, or Board to initiate consideration of the text amendment by resolution.

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6.4.2 Variance (VAR)

B. Review Procedures

1. Any property owner, tenant (with the written consent of the property owner), government official, department, board, or bureau may make application for a variance. Applications shall be made to the Zoning Administrator in accordance with rules adopted by the BZA.

The following items shall be filed to constitute a complete variance application:

- *Application form to include:*
 - *Property location*
 - *Name, address, and signature of property owner and applicant (if different from property owner)*
 - *Description of variance request including any exhibits, sketches, or plans to demonstrate the need for a variance*
- *Any other pertinent information required by the Zoning Administrator to determine compliance with ordinance requirements*
- *Application fee*

The application and accompanying *exhibits, sketches, maps*, plans, or other information shall be transmitted promptly to the Secretary of the BZA, who shall place the matter on the docket to be acted upon by the BZA.

D. *Review of Variances to the Agricultural-Open Space-Conservation (AOC) District Maximum Area Requirement*

1. *Variance for low quality land characteristics.* A lot *in the AOC District* may be created *that exceeds the maximum area requirement set forth in Section 4.1.1 (Lot Density and Dimensional Requirements)* ~~with a maximum lot size exception~~ if it is determined by the ~~Board of Zoning Appeals~~ *Planning Commission* prior to subdivision approval that the lot to be subdivided is of sufficiently low quality as described below to justify using more than the maximum lot area of low quality land for a proposed lot.

- a. *Low quality land characteristics.* Low quality land contains one or more of the following characteristics:
 - *Physical features or small size or irregular shape of potential residual lot such that efficient use of farm machinery would not be possible or that said land would be left to no useful purpose; or*
 - *Combination of physical features and setting such that the maximum lot size allowed in this section for a lot proposed in a minor or major subdivision is too small to accommodate a dwelling, drainfield, and well so as to meet the minimal applicable health standards and provided that no lot may be created or increased in area so as to exceed a maximum area of four acres. ~~An A variance application for a maximum lot size exception,~~*

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submitted under this section, shall be accompanied by a written statement prepared by the Virginia Department of Health or an onsite soil evaluator (OSE) (as defined in County Code Chapter 143, Septic Systems) stating why the proposed lot could not accommodate a dwelling, drainfield, and well meeting Virginia and Clarke County health standards within the maximum lot size allowed in this section. Lots proposed in a major subdivision are not eligible for a *variance* ~~maximum lot size exception~~ under this section; or

- Land that is part of a lot where such land has been determined by the Zoning Administrator not to be important farmland.

- b. Important farmland determination. The Clarke County Land Evaluation and Site Assessment (LESA) System, edition dated March 24, 1992 shall be used as the primary decision-making tool to evaluate maximum lot size exception requests under this subsection. This tool is maintained for public use, inspection and information in the Clarke County Department of Planning and is hereby incorporated into and made a part of this Ordinance as if fully set out herein. A report on the result shall be forwarded to the ~~BZA Commission~~. The ~~Zoning Administrator Commission~~ shall designate as Important Farmland any lands with the following characteristics:

Lot Size	LESA Rating
Under 40 Acres	72% or More
40-129.99 Acres	68% or More
130 Acres or More	64% or More

In instances where the LESA score of a lot is within four points above or below the minimum LESA rating that qualifies a lot as Important Farmland, the ~~BZA Commission~~ may grant or deny a *variance* ~~maximum lot size exception~~, depending on the evidence presented indicating whether the subject land is important farmland. In these instances, the ~~BZA Commission~~ may consider:

- The extent that the proposed lot exceeds the maximum lot size allowed in this section;
- Whether the LESA System accurately reflects the suitability of the subject lot for continuing agricultural use; and
- Factors reasonably related to agricultural suitability of the subject lot that are not appropriately addressed by the LESA System, such as physical features.

The maximum allowable lot size shall be determined using the following chart however, in any instance, the ~~BZA Commission~~ may set a maximum lot size less than specified in the chart:

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LESA rating for important farmland	Maximum lot size
Within 4 points above or below minimum LESA rating, lot is 20 acres or larger	4 acres
Between 5 and 12 points below the minimum LESA rating, lot is 20 acres or larger	6 acres
12 or more points below the minimum LESA rating OR the lot is less than 20 acres	As determined by the BZA Commission

2. ***Reducing size of lot approved with a maximum lot size exception or variance.*** No lot approved with a maximum lot size exception *prior to [INSERT ADOPTION DATE], maximum area requirement exception per Section 4.1.1A-3, or by variance granted by the BZA after [INSERT ADOPTION DATE]* shall be reduced in size by boundary line adjustment without approval by the ~~BZA Planning Commission~~ for one or both of the following hardship reasons:

- To correct an encroachment of a driveway, onsite sewage disposal system, or a structure located on an adjacent lot
- To aid in the repair or replacement of a failing onsite sewage disposal system located on an adjacent lot

6.4.3 Appeal (AP)

B. Review Procedures

2. The BZA shall fix a reasonable time for hearing an appeal, and shall give public notice and hold a public hearing as provided in [Section 2.5 \(Public Hearings\)](#) following receipt of a complete appeal application. ***The following items shall be filed to constitute a complete appeal application:***

- ***Application form to include:***
 - ***Property location***
 - ***Name, address, and signature of property owner and appellant (if different from property owner)***
 - ***Description of appeal including the specific grounds for appeal and applicable Zoning Ordinance sections***
 - ***Any other documentation to support the appeal request***
- ***Application fee***

6.4.4 Interpretation of Zoning District Map (IZM)

B. Review Procedures

1. ***Any property owner, tenant (with the written consent of the property owner), government official, department, board, or bureau may make application for an interpretation of the zoning district map. Applications shall be made to the Zoning Administrator in accordance with rules adopted by the BZA.***

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The following items shall be filed to constitute a complete IZM application:

- *Application form to include:*
 - *Property location*
 - *Name, address, and signature of property owner and applicant (if different from property owner)*
 - *Reason for the interpretation request including any exhibits, sketches, maps, plans, or other information to support the applicant's interpretation*
 - *Application fee*
2. After notice to the owners of the property affected by the question, and after public hearing as provided in [Section 2.5 \(Public Hearings\)](#), the BZA may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question.
 3. The BZA shall make its decision within 90 days of the filing of the appeal, unless the appellant and the BZA mutually agree upon an extended period.

SECTION 7 (Design Standards and Development Regulations)

7.2.1 Site Development Plan Requirements

- A. **Required Components of a Site Development Plan.** The site development plan, or any portion thereof involving engineering, urban planning, landscape architecture, architecture or land surveying, shall be prepared by qualified persons. Site development plans shall be certified by seal and signature of an architect, engineer, or land surveyor licensed to practice by the Commonwealth of Virginia within the limits of their respective licenses. The site plan shall contain the following components, as applicable:
 3. A signature area containing the property owner's signature and signature blocks for approval by ~~the chair of the approval authority and~~ the Zoning Administrator.
- B. **Waiver of Requirements.** Any requirement of this Section may be waived by the **Zoning Administrator** ~~approval authority~~ where the waiver is not inconsistent with this Section, and the applicant establishes that an undue hardship would result from a strict enforcement of this Section, or that the requirement is unreasonable.
- C. **Miscellaneous Design Criteria.** All other criteria and specifications shall be in accordance with County standards, where provided. Where County standards are not provided, the **Zoning Administrator** ~~approval authority~~ shall provide those standards or shall rule upon the standards proposed by the developer.

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7.2.2 Streets, Public Rights of Way, and Pedestrian Facilities

A. Traffic Impact Study Required.

- 1. A traffic impact study (*TIS*) is required when the proposed new development will generate traffic *which requires submission of a TIS as determined in excess of 1000 vehicles per day or when required* by the Virginia Department of Transportation (*VDOT*). The parameters of the *TIS shall be as determined by VDOT* ~~traffic impact study will be decided by the Planning Commission, however, the methodology for preparing the study will be that found in the VDOT Design Manual.~~
- 2. *Developments approved by special use permit.* If the proposed development generates less than *the minimum threshold for a TIS as determined by VDOT and* 1000 vehicles per day *or greater, the Board of Supervisors may require submission of a TIS as a condition of the special use permit approval if* ~~but~~ the nearest intersection is known to be near its design capacity; or there is a high accident rate *based on data from VDOT, Virginia State Police, Clarke County Sheriff's Office, and/or the Clarke County Department of Fire, EMS, and Emergency Management as determined by the Planning Commission, a traffic impact study may be required.*

D. Public Road Access Required; Provision of Shared Access and Interconnection with Adjacent Lots.

- 2. The ~~Zoning Administrator Planning Commission~~ may allow temporary access points if phased development is occurring, as long as a plan is approved that guarantees the new commercial/industrial development shall design site access so that interconnection with an adjoining property, shared driveways, or a frontage road can be incorporated into the design. Except where impractical by reason of topography hardship, the area between the frontage road and the primary highway shall be sufficient to provide area for scenic planting and screening. The dimension of the area between the frontage road and the primary highway shall be determined after due consideration of traffic safety requirements. Driveway spacing and corner clearance with public highways (the distance from the nearest driveway travel lane centerline to the nearest street corner right-of-way) shall be:

Roadway	Driveway Spacing/Corner Clearance
Frontage	100 feet
Secondary	600 feet
Primary	600 feet where there is no median opening; 1000 feet where there is a median opening

- F. **On-site Travel Way Design Standards.** On-site travel ways shall be designed with the following standards:

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~~5. Taper Lane: The Planning Commission may require an on-site right turn taper when right turn traffic volumes are less than 300 vehicles per hour.~~

7.2.4 Landscaping Design Standards

H. Alternative Landscaping Plan.

1. An alternative landscaping plan may be approved by the *Zoning Administrator Planning Commission* where a deviation from the requirements of this section is justified because of site or development conditions that make strict compliance with such requirements impossible or impractical, or when a different landscaping approach is desired to meet the purpose of this section. Conditions justifying approval of an alternative landscaping plan include but are not limited to:
 - a. Natural conditions such as topography, rock formations, and watercourses.
 - b. The likelihood that landscaping material would be ineffective at maturity due to site conditions.
 - c. Lot size or configuration.
 - d. Road rights-of-way, utility easements, or other easements.
 - e. Potential for interference with vehicular sight distance or public safety (including crime prevention through environmental design (CPTED) methods).
 - f. Other situations in which strict adherence to the landscaping or tree protection standards in this section are determined to be impractical by the Commission.
- ~~2. All requests for approval of an alternative landscaping plan shall be reviewed and acted upon by the Planning Commission.~~
2. Allowable deviations from the requirements of this section include but are not limited to:
 - a. Reduced planting rates and locations due to presence of public facilities. An adjustment to planting locations or reduction in the total number of required trees and shrubs may be allowed when underground connections to public facilities or utilities, or public easements or rights-of-way, are located upon or in close proximity to the parcel.
 - b. Reduced planting rates and locations due to nature of lot. An adjustment to planting locations, plant type, or reduction in the total number of required trees and shrubs may be allowed to provide enhanced protection of natural resources, greater consistency with the intent of this section, or to provide a site design that exceeds the quality and effectiveness of what would otherwise result under a strict application of the regulations in this section.
 - c. Reduced planting rates and locations due to nonconformities of lot. An adjustment to planting locations or reduction in the total number of required trees and shrubs may be allowed in cases in which a lot is nonconforming to dimensional requirements.

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- d. Upgrading of nonconforming landscaping. An adjustment to planting locations or reduction in the total number of required trees and shrubs may be allowed in conjunction with an upgrading of nonconforming landscaping.
3. Screening fences or walls may be proposed as a substitution for required landscaping for business, institutional, or industrial buffer areas adjacent to agricultural or residential zoning districts. Such fences or walls shall be a minimum of six feet in height, solid, and composed of the same or compatible all-weather materials as the primary structure on the site.
4. Installation of additional hardy plant material such as non-invasive ornamental grasses and perennials, and usage of rain catchment systems, are encouraged as part of an alternate landscaping plan.

7.2.5 Parking Regulations

E. Limitations on Use.

2. Off-street parking (~~whether on site or off site~~) shall be allowed only for permitted uses, accessory uses, or special uses that are allowed by the use regulations of zoning district in which the off-street parking is located.

- F. Parking to be Located on Same Lot as Principal Use; ~~Exceptions.~~** Required off-street parking facilities shall be on the same lot with the principal use or structure. ~~Where it is impractical to provide all or part of required off-street parking on the same lot, exceptions may be permitted by the Planning Commission in conjunction with the review of a site development plan (Section 6.2.2) or site development plan amendment (Section 6.2.3) subject to the following:~~

- ~~1. Buffering and design and improvement standards applying generally to off-street parking.~~
- ~~2. Special conditions and safeguards called for in the circumstances of the case.~~
- ~~3. Requirements of satisfactory assurance that such required parking will remain available for the use or structure, or that equivalent similarly approved parking will be provided before such parking is diminished in whole or in part.~~

G. Joint Parking Facilities.

1. Where there are multiple uses on one lot, or where uses on adjoining lots propose to combine parking areas and/or access ways, such joint parking facilities shall be permitted, subject to the general requirements and limitations applying to all parking areas. Such combinations shall be permitted by the Zoning Administrator subject to the general requirements and standards set forth.

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2. Where it is proposed to establish off-street joint parking facilities not contiguous to the uses served, but serving more than one use, such facilities may be permitted by the ~~Zoning Administrator Planning Commission~~ in conjunction with a site development plan or site development plan amendment review.

7.2.8 Plan Approval and Construction

~~C. **Minor Revisions.** The Zoning Administrator may administratively approve changes to an approved site development plan which the Zoning Administrator determines:~~

- ~~• Are minor revisions of a non-substantive or editorial nature~~
- ~~• Comply with all provisions of this Section~~
- ~~• Would produce no additional adverse impact on public facilities or adjacent properties~~
- ~~• Would require no substantive review by the approval authority~~

~~Minor revisions approved by the Zoning Administrator shall be documented by the applicant on revised plan sheets and shall be retained with all copies of the approved site development plan. The Zoning Administrator shall include a written justification for approving the minor revisions in the documentation for the site development plan.~~

7.3 Wireless Communication Facility (WCF) Design Standards

C. Application Requirements

1. Requirements for Class 1 and Class 2 WCF applications. Applicants requesting approval of a Class 1 or Class 2 WCFs shall submit the following information to the Zoning Administrator for review. Class 1 WCF applications shall be reviewed and acted upon by the Zoning Administrator in accordance with [Section 6.2.1 \(Zoning Permit\)](#) including review and approval of a site development plan meeting the requirements of this Section. Site development plans for Class 2 WCF applications shall be reviewed and acted upon by the ~~Zoning Administrator Planning Commission~~ in accordance with [Section 6.2.2 \(Site Development Plan\)](#).
2. Requirements for Class 3 and 4 WCF applications. In addition to the application requirements for Class 1 and Class 2 WCF applications, applicants requesting a [Special Use Permit per Section 6.3.1](#) to construct a new Class 3 or 4 WCF shall submit the following information to the Zoning Administrator for review and action by the Planning Commission and Board of Supervisors:
 - c. An application for a Special Use Permit ~~and Site Development Plan review~~ shall be signed by the owner(s) of the property on which the WCF is to be sited and by the telecommunications provider or developer of the WCF site.

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SECTION 8 (Performance and Maintenance Guarantees) – No changes identified

SECTION 9 (Nonconformities)

- B. Nonconforming Lots Created by Highway, Realignment, Condemnation, or Court Decree.** Any lot, which by reason of realignment of a Federal or State highway, by reason of condemnation proceedings, or by reason of the decree or order of a Court of competent jurisdiction, has been reduced in size to an area *or dimensions* less than that required by law, shall be considered a nonconforming lot of record subject to the provisions of this Section.

SECTION 10 (Enforcement) – No changes identified

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TA-25-05, SENATE BILL 974 MANDATE SUBDIVISION ORDINANCE (ARTICLE II) AND DEFINITIONS (ARTICLE III) SECTIONS TO BE AMENDED

ARTICLE II – SUBDIVISION ORDINANCE

SECTION 1 (General Provisions) – No changes identified

SECTION 2 (Administration)

2.1.1 **Generally.** The *Zoning Administrator and Planning Commission (“Commission”)* ~~following decision-making bodies and County Staff~~ have powers and responsibilities in administering and reviewing applications under this Ordinance:

- Zoning Administrator
- Planning Commission (“Commission”)
- ~~Board of Supervisors~~

Additionally, there are technical consultants, agencies, and departments who may review and comment on specific application types during the review process.

2.1.2 **Zoning Administrator.** The Zoning Administrator shall have the following purposes and duties under this Ordinance:

A. **Review and Decision.** To review and act as the approval authority on applications and requests for the following except when the review process directs the Commission to review and act as the approval authority:

- *Minor Subdivision (Section 3.2.1)*
- *Major Subdivision (Section 3.2.2)*
- *Administrative Land Division (Section 3.3.1)*
- *Boundary Line Adjustment (Section 3.3.2)*
- *Merger (Section 3.3.3)*
- *Public Utility Lot Division (Section 3.3.5)*
- *Court-Ordered Partitions of Land (Section 3.3.6)*

For minor subdivision, major subdivision, and administrative land division applications, the Zoning Administrator shall act as the designated agent as defined in the Code of Virginia. In the absence of the Zoning Administrator, the Director of Planning shall act as the designated agent.

B. **Additional Duties.** The Zoning Administrator shall have the following additional duties:

- ~~Review and make recommendations on applications for action by the Commission or Board of Supervisors under this Ordinance.~~

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- Administration and enforcement of this Ordinance including the ordering in writing of the remedying of any condition found in violation of this Ordinance, and the bringing of legal action to ensure compliance with the Ordinance, including injunction, abatement, or other appropriate action or proceeding.
- Determine whether to issue partial or final release of performance guarantees upon partial or final completion of required infrastructure construction approved under this Ordinance.

C. Administrative Authority. The Zoning Administrator shall have the following administrative authority regarding review processes governed by this Ordinance:

- To determine completeness of an application as described in [Section 2.2.1](#).
- To establish application forms, the number and size of paper copies of required plans and supporting documentation, the format of digital files to be provided, and required information and materials to constitute a complete application per [Section 2.2.1](#).
- To vary application requirements based on unique circumstances which may require submission of required materials in a different format or quantity.
- To require such other information to be submitted as deemed necessary for a proper and intelligent consideration of an application.
- To establish regular filing deadlines to ensure that there is sufficient time to review applications prior to an approval authority's initial review of an application.
- To delegate administrative authority to designated County staff as needed.

2.1.3 Planning Commission

A. Generally. The Clarke County Planning Commission ("Commission") is created and organized pursuant to [Article 2, Chapter 22 of the Code of Virginia \(§15.2-2210, et seq.\)](#) and shall have the purposes, duties, and authority set forth therein.

B. Purposes and Duties. The Commission shall have the authority to review and act on the following applications for properties located outside of the Berryville Annexation Area (Annexation Area "B" as defined in the [1988 Agreement Defining Annexation Rights \(Clarke County and Town of Berryville\)](#)):

- ~~[Administrative Land Division \(Section 3.3.1\)](#), when the Commission is specified as the approval authority~~
- [Boundary Line Adjustment \(Section 3.3.2\)](#), when the Commission is specified as the approval authority
- ~~[Minor Subdivision \(Section 3.2.1\)](#)~~
- ~~[Major Subdivision \(Section 3.2.2\)](#)~~

C. Membership, Term of Office, and Operating Procedures. Membership, Term of Office, and Operating Procedures shall be as set forth in [Zoning Ordinance \(Article I\), Section 2.2.3 \(Planning Commission\)](#).

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2.2.1 Application Submission Requirements Generally, ~~Pre-Application Conference Requirements~~; Acceptance of Complete Application

A. Application Submission Requirements Generally.

1. Content. The Zoning Administrator is authorized to *interpret and enforce* ~~establish~~ the requirements for the content and form of each type of specific development application reviewed under this Ordinance *as described in Section 3 (Review Processes)*. ~~The Zoning Administrator may update these standards as necessary to ensure effective and efficient review.~~ It is the applicant's responsibility to ensure that an application contains sufficient information to demonstrate compliance with all applicable standards.

~~**B. Pre-Application Conference.** The purpose of a pre-application conference is to provide an opportunity for the applicant to determine the submission requirements and the procedures and regulations that will apply to an anticipated development application. A pre-application conference is also intended to provide an opportunity for the Zoning Administrator to become familiar with, and offer the applicant preliminary comments about, the anticipated development application as its scope and features relate to the regulations in this Ordinance.~~

- ~~1. Pre-Application Conference Required. A pre-application conference is required for the following applications:~~

- ~~• Minor Subdivision~~
- ~~• Major Subdivision~~

~~A pre-application conference shall be held with the Zoning Administrator no less than seven (7) days prior to filing an application.~~

- ~~2. Required Information to Be Provided at the Pre-Application Conference. The applicant shall provide an exploratory sketch plan or conceptual drawings that show the location, general layout, and main elements of the proposed subdivision. Additional information or materials may be required by the Zoning Administrator.~~

- ~~3. Effect of Pre-Application Conference. The pre-application conference is intended to facilitate the application review process and any discussions held in accordance with this section are not binding on the County. Processing times for review of development applications do not begin until a formal application is submitted and determined to be complete in accordance with Subsection C below.~~

C. Acceptance of a Complete Application.

1. Completeness Review. Upon receiving an application, the Zoning Administrator shall, ~~within five business days~~, determine whether an application is complete or incomplete. A complete application is one that:

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- Contains all information and materials and is in the form required by the Zoning Administrator and by this Ordinance, as required for submission of the particular type of application;
- Includes information containing sufficient detail to evaluate the application to determine whether it complies with the applicable review standards of this Ordinance; and
- Is accompanied by the fees established for ~~the~~ **this** particular type of application.

Per Code of Virginia requirements, the Zoning Administrator has five (5) business days from receiving an application to determine whether it is complete and, if complete, to forward the application to all applicable Federal, State, and local reviewing agencies and departments and to the County's technical consultants for review if applicable.

2. Application Complete. Upon determining that the application is complete, the Zoning Administrator shall accept the application for review in accordance with the procedures and standards of this Ordinance and shall process the application fees that have been paid.
3. Application Incomplete. Upon determining an application to be incomplete, the Zoning Administrator shall provide the applicant with written notice of the submission deficiencies. The Zoning Administrator may also return the submission and fees to the applicant. The applicant may correct the deficiencies and resubmit the application for a **new** completeness review. The Zoning Administrator shall not process an application for further review or process the application fees until the application is determined to be complete.

D. Application Revision.

2. *Any revisions that constitute a change of use from the originally submitted application shall require the application to be withdrawn and resubmitted as a new application including payment of all application fees. Revisions that include substantive changes which differ from the original application but do not change the use shall be treated as a new submission, allowing the Zoning Administrator to identify any deficiencies found in the review process that were not commented on in the original submission.*

~~Any revisions that constitute significant substantive changes and that materially alter the application that was originally submitted shall require that application to be withdrawn and resubmitted. The revised application shall be treated as a new submission that is subject to application fees and review deadlines.~~

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SECTION 3 (Review Processes)

3.1 Review Processes Generally

3.1.3 Plat Recordation.

- A. No subdivision plat shall be recorded unless and until it shall have been submitted to and approved by the *Zoning Administrator Planning Commission* as herein provided and is in full accordance with the regulations set forth in this Ordinance.

3.2.1 MINOR SUBDIVISION (MS)	
<p><u>Approval Authority:</u> <i>Zoning Administrator or Director of Planning in absence of the Zoning Administrator Planning Commission</i></p>	<p><u>Time Limit for Review:</u> -- 60 days from date of <i>receipt of a complete application</i> first review of the application by the approval authority -- 45 days from date of <i>receipt of a complete resubmitted application</i> first review of a resubmitted application by the approval authority</p>
<p><u>Pre-Application Meeting Required:</u> No <i>Yes—No less than 7 days prior to filing an application</i></p>	<p><u>Public Hearing Required:</u> No</p>
<p><u>Other Applicable Deadlines:</u> None <i>Submission of new or revised materials (See <u>Subsection D4</u>)</i></p>	<p><u>Expiration:</u> Yes – See Section 3.1.3</p>

- A. **When Required.** *A minor subdivision is a subdivision of land which does not meet the requirements for a major subdivision as described in [Section 3.2.2A](#). Minor subdivision review is required for the proposed division of one existing lot into a maximum of one new lot and one residual lot. Minor subdivision review is also required for the division of one existing lot into a maximum of two new lots and one residual lot and where at least one but not more than two of the resultant lots will have an area of 100 acres or more.*
- B. **Approval Authority.** The approval authority for minor subdivision review shall be the *Zoning Administrator or Director of Planning in absence of the Zoning Administrator Planning Commission.*
- ~~C. **Pre-Application Conference Required.** A Pre-Application Conference per [Section 2.2.1B](#) is required for minor subdivision applications.~~
- C. **Application Filing, Processing, and Review by *Zoning Administrator Approval Authority.***

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1. An application for review of a minor subdivision shall be made by submitting a complete application *in accordance with Section 4.1.1 (Minor Subdivision)*, ~~construction plans (if applicable) per Section 4.3~~, and the required *application* fees to the Zoning Administrator, who will review the application for completeness in accordance with Section 2.2.1C (Acceptance of a Complete Application).
- ~~2. After receipt of a complete application, the Zoning Administrator shall refer the matter to the approval authority for initial review at its next regular meeting.~~
2. *After receipt of a complete application*, the Zoning Administrator shall forward copies of the application and supporting documents to all applicable agencies, *departments, and technical consultants* and officials for written comments and recommendations. ~~After receiving such comments and recommendations, the Zoning Administrator shall prepare a report for the approval authority.~~
- ~~4. The Applicant shall provide any new or revised materials no less than 3 business days prior to the work session at which the approval authority will be discussing the application. Any new or revised materials provided after the deadlines referenced above shall be not considered by the approval authority at the scheduled meeting.~~
3. The *Zoning Administrator* approval authority shall act to approve, ~~approve with conditions~~, or disapprove the minor subdivision application within 60 days *of receipt of a complete application* ~~of its first business meeting to review the application~~ unless the applicant requests a deferral in accordance with Section 2.2.3 (Deferral of Application Review). ~~The first business meeting shall constitute officially submitting the application for approval.~~ If the application is disapproved and the applicant files a *complete resubmitted* ~~corrected~~ application, the *Zoning Administrator* approval authority shall act to approve, ~~approve with conditions~~, or disapprove the *resubmitted* ~~corrected~~ application within 45 days *of receipt of its first meeting to review the application* unless the applicant requests a deferral in accordance with Section 2.2.3.
- D. **Plat recordation and performance guarantees.** ~~Following approval of the plat by the approval authority, the Zoning Administrator shall coordinate resolution of any outstanding review items and obtain all required signatures on the final plat for recordation.~~ If construction of infrastructure improvements is required in conjunction with an approved construction plan per Section 3.4, the applicant shall provide performance guarantees in accordance with Section 5 prior to approval of the final plat for recordation. As an alternative, the applicant may complete construction of the required infrastructure improvements in accordance with the approved construction plans. If the applicant selects this alternative approach, all construction shall be completed in accordance with Section 3.1.3C (Deadline to Record Approved Plat) prior to approval of the final plat for recordation.

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F. Action by the *Zoning Administrator Approval Authority*.

1. The *Zoning Administrator approval authority* shall approve the minor subdivision plat if ~~they find it finds~~ that the plat meets the requirements of this Ordinance, the [Zoning Ordinance \(Article I\)](#), the [Code of Clarke County](#), the [Code of Virginia](#), and any other applicable State or Federal regulations.
2. To further the intent of this Section and to protect public safety and general welfare, no minor subdivision plat shall be approved until the *Zoning Administrator approval authority* is assured that any proposed improvements will be constructed in compliance with [Section 4.5 \(Subdivision and Construction Plan Design Standards\)](#), and all County, State, and Federal requirements. Proposed improvements include but are not limited to:
 - Public streets, rights-of-way, and pedestrian facilities
 - Private access easements
 - Public water and/or public sewer systems
 - Onsite wells and/or onsite sewage disposal systems
 - Stormwater management facilities
 - Utilities and utility easements
- ~~3. The approval authority may condition final approval of the minor subdivision upon the applicant making certain administrative changes or modifications to the record plat with such conditions to be stated in the approval authority's motion for conditional approval of the plan. If conditional approval is granted, authority shall be delegated to the Zoning Administrator to determine compliance with the approval authority's conditions.~~
3. If the *Zoning Administrator approval authority* disapproves a minor subdivision, ~~they it~~ shall state the reasons for such denial *in writing to the applicant in the approval authority's motion to disapprove the plat*. The reasons for disapproval shall identify deficiencies in the plat that caused the disapproval, and shall identify, to the extent practicable, modifications or corrections that will permit approval of the plat.

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3.2.2 MAJOR SUBDIVISION (S)	
<u>Approval Authority:</u> <i>Zoning Administrator or Director of Planning in absence of the Zoning Administrator Planning Commission</i>	<u>Time Limit for Review:</u> -- 60 days from date of <i>receipt of a complete application</i> first review of the application by the approval authority -- 45 days from date of <i>receipt of a complete resubmitted application</i> first review of a resubmitted application by the approval authority
<u>Pre-Application Meeting Required:</u> <i>No Yes—No less than 7 days prior to filing an application</i>	<u>Public Hearing Required:</u> <i>No Yes</i>
<u>Other Applicable Deadlines:</u> <i>None Submission of materials prior to Public Hearing—See <u>Subsection D4</u></i>	<u>Expiration:</u> Yes – See Section 3.1.3

- A. When Required.** ~~A major subdivision review is required for~~ *is a subdivision of land which requires construction plan review in compliance with [Section 4.3](#) for one or more of the following elements:* ~~the proposed division of one existing lot into two or more new lots and one residual lot and where none of the resultant lots have an area of 100 acres or more.~~
- *Land disturbance requiring submission of an erosion and sediment control plan and/or stormwater management plan*
 - *Construction of a new or modifications to an existing private access easement*
 - *Construction of a new or modifications to an existing public road*
 - *Connection of proposed lots to public water, public sewer, and/or public stormwater utilities*
- Subdivision of land in the Forestal-Open Space-Conservation (FOC) District shall also require major subdivision review to determine compliance with [Section 4.4.2](#).*
- B. Approval Authority.** The approval authority for major subdivision review shall be the *Zoning Administrator or Director of Planning in absence of the Zoning Administrator Planning Commission.*
- ~~**C. Pre-Application Conference Required.** A Pre-Application Conference per [Section 2.2.1B](#) is required for major subdivision applications.~~

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C. Application Filing, Processing, and Review by *Zoning Administrator Approval Authority*.

1. An application for review of a major subdivision shall be made by submitting a complete application *in accordance with Section 4.1.2 (Major Subdivision)*, ~~construction plans (if applicable) per *Section 4.3*~~, and the required *application* fees to the Zoning Administrator, who will review the application for completeness in accordance with [Section 2.2.1C \(Acceptance of a Complete Application\)](#).
- ~~2. After receipt of a complete application, the Zoning Administrator shall refer the matter to the approval authority for initial review at its next regular meeting and shall schedule a Public Hearing in accordance with [Section 2.3 \(Public Hearings\)](#). A Public Hearing shall be required for any major subdivision.~~
2. *After receipt of a complete application*, the Zoning Administrator shall forward copies of the application and supporting documents to all applicable agencies, *departments, and technical consultants* and ~~officials~~ for written comments and recommendations. ~~After receiving such comments and recommendations, the Zoning Administrator shall prepare a report for the approval authority.~~
- ~~4. The Applicant shall provide any new or revised materials demonstrating compliance with any technical requirements no less than 14 days prior to the first Public Hearing and no less than 10 days prior to any continued Public Hearing. Technical requirements include any regulations governing site development such as lot or building requirements and plan submission requirements. Any new or revised materials provided after the deadlines referenced above shall be not considered by the approval authority at the scheduled meeting.~~
3. The *Zoning Administrator approval authority* shall act to approve, ~~approve with conditions~~, or disapprove the minor subdivision application within 60 days *of receipt of a complete application* ~~of its first business meeting to review the application~~ unless the applicant requests a deferral in accordance with [Section 2.2.3 \(Deferral of Application Review\)](#). ~~The first business meeting shall constitute officially submitting the application for approval.~~ If the application is disapproved and the applicant files a *complete resubmitted* ~~corrected~~ application, the *Zoning Administrator approval authority* shall act to approve, ~~approve with conditions~~, or disapprove the *resubmitted* ~~corrected~~ application within 45 days *of receipt of its first meeting to review the application* unless the applicant requests a deferral in accordance with [Section 2.2.3](#).
- D. Plat recordation and performance guarantees.** ~~Following approval of the plat by the approval authority, the Zoning Administrator shall coordinate resolution of any outstanding review items and obtain all required signatures on the final plat for recordation.~~ If construction of infrastructure improvements is required in conjunction with an approved construction plan per [Section 3.4](#), the applicant shall provide performance guarantees in accordance with [Section 5](#) prior to approval of the final plat for recordation. As an alternative, the applicant may complete construction of the

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required infrastructure improvements in accordance with the approved construction plans. If the applicant selects this alternative approach, all construction shall be completed in accordance with [Section 3.1.3C \(Deadline to Record Approved Plat\)](#) prior to approval of the final plat for recordation.

F. Action by the *Zoning Administrator Approval Authority*.

1. The *Zoning Administrator approval authority* shall approve the major subdivision plat if ~~they find it finds~~ that the plat meets the requirements of this Ordinance, the [Zoning Ordinance \(Article I\)](#), the [Code of Clarke County](#), the [Code of Virginia](#), and any other applicable State or Federal regulations.
2. To further the intent of this Section and to protect public safety and general welfare, no major subdivision plat shall be approved until the *Zoning Administrator approval authority* is assured that any proposed improvements will be constructed in compliance with [Section 4.5 \(Subdivision and Construction Plan Design Standards\)](#), and all County, State, and Federal requirements. Proposed improvements include but are not limited to:
 - Public streets, rights-of-way, and pedestrian facilities
 - Private access easements
 - Public water and/or public sewer systems
 - Onsite wells and/or onsite sewage disposal systems
 - Stormwater management facilities
 - Utilities and utility easements
- ~~3. The approval authority may condition final approval of the major subdivision upon the applicant making certain administrative changes or modifications to the record plat with such conditions to be stated in the approval authority's motion for conditional approval of the plan. If conditional approval is granted, authority shall be delegated to the Zoning Administrator to determine compliance with the approval authority's conditions.~~
3. If the *Zoning Administrator approval authority* disapproves a major subdivision, ~~they it~~ shall state the reasons for such denial *in writing to the applicant in the approval authority's motion to disapprove the plat*. The reasons for disapproval shall identify deficiencies in the plat that caused the disapproval, and shall identify, to the extent practicable, modifications or corrections that will permit approval of the plat.

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3.3.1 ADMINISTRATIVE LAND DIVISION (ALD)	
<u>Approval Authority:</u> -- Zoning Administrator <i>or Director of Planning in absence of the Zoning Administrator</i>	<u>Time Limit for Review:</u> -- 60 days from date of <i>receipt of a complete application</i> first review of the application by the approval authority -- 45 days from date of <i>receipt of a complete application</i> first review of the application by the approval authority
<u>Pre-Application Meeting Required:</u> No	<u>Public Hearing Required:</u> No
<u>Other Applicable Deadlines:</u> None	<u>Expiration:</u> Yes – See Section 3.1.3

- B. Approval Authority.** The approval authority for administrative land division review shall be the Zoning Administrator *or Director of Planning in absence of the Zoning Administrator*.
- C. Application Filing, Processing, and Review by *Zoning Administrator Approval Authority*.**
 1. An application for review of an administrative land division shall be made by submitting a complete application *in accordance with Section 4.2.1 (Administrative Land Division)*, ~~construction plans (if applicable) per Section 4.3,~~ and the required *application* fees to the Zoning Administrator, who will review the application for completeness in accordance with [Section 2.2.1C \(Acceptance of a Complete Application\)](#).
 2. *After receipt of a complete application,* the Zoning Administrator may forward copies of the application and supporting documents to applicable agencies, *departments, and technical consultants* ~~and officials~~ for written comments and recommendations.
 3. Once the application is determined to be complete, the Zoning Administrator shall act to approve or disapprove the administrative land division application within 60 days of receipt of *the a* complete application. If the application is disapproved and the applicant files a *complete resubmitted* ~~corrected~~ application, the Zoning Administrator shall act to approve or disapprove the *resubmitted* ~~corrected~~ application within 45 days of receipt ~~of a complete corrected application~~ *unless the applicant requests a deferral in accordance with Section 2.2.3.*
- D. Plat recordation and performance guarantees.** ~~Following approval of the plat by the approval authority, the Zoning Administrator shall coordinate resolution of any outstanding review items and obtain all required signatures on the final plat for recordation.~~ If construction of infrastructure improvements is required in conjunction

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with an approved construction plan per [Section 3.4](#), the applicant shall provide performance guarantees in accordance with [Section 5](#) prior to approval of the final plat for recordation. As an alternative, the applicant may complete construction of the required infrastructure improvements in accordance with the approved construction plans. If the applicant selects this alternative approach, all construction shall be completed in accordance with [Section 3.1.3 \(Deadline to Record Approved Plat\)](#) prior to approval of the final plat for recordation.

3.3.2 BOUNDARY LINE ADJUSTMENT (BLA)	
<u>Approval Authority:</u> -- Zoning Administrator -- Planning Commission, in specific situations (See Subsection B)	<u>Time Limit for Review:</u> -- 60 days from date of <i>receipt of a complete application first review of the application by the approval authority</i> -- 45 days from date of <i>receipt of a complete application first review of a resubmitted application by the approval authority</i>
<u>Pre-Application Meeting Required:</u> No	<u>Public Hearing Required:</u> No
<u>Other Applicable Deadlines:</u> None	<u>Expiration:</u> Yes – See Section 3.1.3

- B. Approval Authority.** The approval authority for boundary line adjustment review shall be the Zoning Administrator. If a boundary line adjustment proposes to exceed the area limitations set forth in [Section 4.4.1 \(Special Regulations – Boundary Line Adjustments\)](#), the Planning Commission shall be the approval authority.
- C. Application Filing, Processing, and Review by *Zoning Administrator Approval Authority*.**
1. An application for review of a boundary line adjustment shall be made by submitting a complete application *in accordance with Section 4.2.2 (Boundary Line Adjustment); construction plans (if applicable) per Section 4.3;* and the required *application* fees to the Zoning Administrator, who will review the application for completeness in accordance with [Section 2.2.1C \(Acceptance of a Complete Application\)](#).
 2. *After receipt of a complete application,* the Zoning Administrator may forward copies of the application and supporting documents to applicable agencies, *departments, and technical consultants and officials* for written comments and recommendations.
 3. Once the application is determined to be complete, the Zoning Administrator shall act to approve or disapprove the boundary line adjustment application within 60 days of receipt of *the a* complete application. If the application is disapproved and the applicant files a *complete resubmitted corrected* application, the Zoning Administrator shall act to

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approve or disapprove the *resubmitted corrected* application within 45 days of receipt ~~of a complete corrected application unless the applicant requests a deferral in accordance with Section 2.2.3.~~

4. Procedures for boundary line adjustments in which the Planning Commission is the approval authority (Section 4.4.1A-1a and 4.4.1A-4 Ib):
 - a. After receipt of a complete application, the Zoning Administrator shall refer the matter to the Commission for review at its next regular meeting.
 - b. The Zoning Administrator shall forward copies of the application and supporting documents to all applicable agencies and officials for written comments and recommendations. After receiving such comments and recommendations, the Zoning Administrator shall prepare a report for the Commission.
 - c. The Applicant shall provide any new or revised materials no less than 3 business days prior to the work session at which the Commission will be discussing the application. Any new or revised materials provided after the deadlines referenced above shall be not considered by the Commission at the scheduled meeting.
 - d. The Commission shall act to approve, approve with conditions, or disapprove the boundary line adjustment application within 60 days of its first meeting to review the application unless the applicant requests a deferral in accordance with Section 2.2.3 (Deferral of Application Review). If the application is disapproved and the applicant files a corrected application, the approval authority shall act to approve, approve with conditions, or disapprove the corrected application within 45 days of its first meeting to review the application unless the applicant requests a deferral in accordance with Section 2.2.3.
- D. **Plat recordation and performance guarantees.** ~~Following approval of the plat by the approval authority, the Zoning Administrator shall coordinate resolution of any outstanding review items and obtain all required signatures on the final plat for recordation.~~ If construction of infrastructure improvements is required in conjunction with an approved construction plan per Section 3.4, the applicant shall provide performance guarantees in accordance with Section 5 prior to approval of the final plat for recordation. As an alternative, the applicant may complete construction of the required infrastructure improvements in accordance with the approved construction plans. If the applicant selects this alternative approach, all construction shall be completed in accordance with Section 3.1.3C (Deadline to Record Approved Plat).
- F. **Action by the Zoning Administrator Approval Authority.** The *Zoning Administrator approval authority* shall approve the boundary line adjustment plat if *they it* finds that the plat meets the requirements of this Ordinance, the Zoning Ordinance (Article I), the Code of Clarke County, the Code of Virginia, and any other applicable State or Federal regulations.

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3.3.3 MERGER (MG)	
<u>Approval Authority:</u> -- Zoning Administrator	<u>Time Limit for Review:</u> -- 60 days from date of <i>receipt of a complete application</i> first review of the application by the approval authority -- 45 days from date of <i>receipt of a complete application</i> first review of a resubmitted application by the approval authority
<u>Pre-Application Meeting Required:</u> No	<u>Public Hearing Required:</u> No
<u>Other Applicable Deadlines:</u> None	<u>Expiration:</u> Yes – See Section 3.1.3

C. Application Filing, Processing, and Review by *Zoning Administrator Approval Authority*.

1. An application for review of a merger plat shall be made by submitting a complete application *in accordance with Section 4.2.3 (Merger)* and the required *application* fees to the Zoning Administrator, who will review the application for completeness in accordance with [Section 2.2.1C \(Acceptance of a Complete Application\)](#).
2. *After receipt of a complete application*, the Zoning Administrator may forward copies of the application and supporting documents to applicable agencies, *departments, and technical consultants* ~~and officials~~ for written comments and recommendations.
3. Merger of lots in the Agricultural-Open Space-Conservation (AOC) or Forestal-Open Space-Conservation (FOC) Zoning Districts shall be subject to the provisions of [Section 3.8 \(Vacation or Merger of Lots in the AOC and FOC Districts\) of Article I, Zoning Ordinance](#). The Zoning Administrator shall review and determine the resultant dwelling unit right (DUR) allocation of the merged lots in accordance with [Zoning Ordinance \(Article I\), Section 3 \(Sliding-Scale Zoning\)](#) and shall inform the applicant of the determination prior to approval of the merger plat.
4. Once the application is determined to be complete, the Zoning Administrator shall act to approve or disapprove the merger application within 60 days of receipt of ~~the a~~ complete application. If the application is disapproved and the applicant files a *complete resubmitted* ~~corrected~~ application, the Zoning Administrator shall act to approve or disapprove the *resubmitted* ~~corrected~~ application within 45 days of receipt ~~of a complete corrected application~~ *unless the applicant requests a deferral in accordance with Section 2.2.3*.

D. Plat recordation. ~~The Zoning Administrator shall coordinate resolution of any outstanding review items and obtain all required signatures on the final plat for~~

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~~recording~~: An approved final plat shall be recorded within six (6) months of approval, and a copy of the recorded plat shall be returned to the Zoning Administrator.

3.3.4 VACATION OF PLAT (VAC)	
<u>Approval Authority:</u> -- Zoning Administrator Planning Commission or Board of Supervisors (see Subsection B)	<u>Time Limit for Review:</u> None
<u>Pre-Application Meeting Required:</u> No	<u>Public Hearing Required:</u> Yes, in specific situations (See Subsection B)
<u>Other Applicable Deadlines:</u> None	<u>Expiration:</u> Not applicable

- A. When Required.** The vacation of plat review process is required in order to vacate a recorded plat or a portion of a recorded plat in accordance with Code of Virginia requirements.
- B. Approval Authority.**
- 1.** The approval authority for vacation of plat or portion of plat prior to sale of lot therein (**Va. Code §15.2-2271**) *shall be the Zoning Administrator pursuant to §15.2-2271(1) and shall be the Board of Supervisors pursuant to §15.2-2271(2) may be delegated by the Board of Supervisors to the Planning Commission.*
 - 2.** The approval authority for vacation of plat or portion of plat after sale of lot (**Va. Code §15.2-2272**) shall be the Board of Supervisors.
- C. Review Procedures.** The procedures, *application requirements*, and review criteria for vacation of plat applications ~~by the Board of Supervisors~~ shall be as set forth in the Code of Virginia:
- **Va. Code §15.2-2271(1)** for vacation of plat or portion of plat prior to sale of lot. *Vacation by ordinance shall require public hearing and notification as set forth in this Va. Code section.*
 - **Va. Code §15.2-2272** for vacation of plat or portion of plat after sale of one or more lots). *Vacation by ordinance shall require public hearing and notification as set forth in this Va. Code section.*

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3.3.5 PUBLIC UTILITY LOT DIVISION (PULD)	
<u>Approval Authority:</u> -- Zoning Administrator	<u>Time Limit for Review:</u> -- 60 days from date of <i>receipt of a complete application</i> first review of the application by the approval authority -- 45 days from date of <i>receipt of a complete application</i> first review of the application by the approval authority
<u>Pre-Application Meeting Required:</u> No	<u>Public Hearing Required:</u> No
<u>Other Applicable Deadlines:</u> None	<u>Expiration:</u> Yes – See Section 3.1.3

C. Application Filing, Processing, and Review by *Zoning Administrator Approval Authority*.

1. An application for review of a public utility lot division shall be made by submitting a complete application *in accordance with Section 4.2.5 (Public Utility Lot Division);* ~~construction plans (if applicable) per Section 4.3;~~ and the required *application* fees to the Zoning Administrator, who will review the application for completeness in accordance with [Section 2.2.1C \(Acceptance of a Complete Application\)](#).
2. *After receipt of a complete application,* the Zoning Administrator may forward copies of the application and supporting documents to applicable agencies, *departments, and technical consultants* ~~and officials~~ for written comments and recommendations.
3. Once the application is determined to be complete, the Zoning Administrator shall act to approve or disapprove the public utility lot division application within 60 days of receipt of a complete application. If the application is disapproved and the applicant files a *complete resubmitted* ~~corrected~~ application, the Zoning Administrator shall act to approve or disapprove the *resubmitted* ~~corrected~~ application within 45 days of receipt ~~of a complete corrected application~~ *unless the applicant requests a deferral in accordance with Section 2.2.3.*

D. Plat recordation and performance guarantees. ~~Following approval of the plat by the approval authority, the Zoning Administrator shall coordinate resolution of any outstanding review items and obtain all required signatures on the final plat for recordation.~~ If construction of infrastructure improvements is required in conjunction with an approved construction plan per [Section 3.4](#), the applicant shall provide performance guarantees in accordance with [Section 5](#) prior to approval of the final plat for recordation. As an alternative, the applicant may complete construction of the required infrastructure improvements in accordance with the approved construction plans. If the applicant selects this alternative approach, all construction shall be completed in accordance with [Section 3.1.3 \(Deadline to Record Approved Plat\)](#).

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3.3.6 Court-Ordered Partitions of Land (CPL)

- A. **When Required.** Where a court of appropriate jurisdiction has ordered the partition of a lot among multiple parties of interest, plat review and approval is required as a prerequisite *to confirm compliance with Zoning and Subdivision Ordinance requirements, compliance with the terms of the court's partition order, and* for the resultant lots to receive permits or other approvals from the County.

Pursuant to Code of Virginia requirements, any division of land subject to a partition suit by virtue of order or decree by a court of competent jurisdiction shall take precedence over the minimum lot area, width, or frontage requirements in the Zoning Ordinance (Article I) so long as the lot or parcel resulting from such order or decree does not vary from minimum lot area, width, or frontage requirements by more than 20 percent.

- C. **Application Filing, Processing, and Review by *Zoning Administrator Approval Authority*.**

1. An application for plat review of a court-ordered partition of land shall be made by submitting a complete application *for a minor subdivision per Sections 3.2.1 and 4.1.1, a major subdivision per Sections 3.2.2 and 4.1.2, or an administrative land division per Sections 3.3.1 and 4.2.1 as applicable*, ~~a plat of the partitioned lots prepared by a licensed surveyor,~~ and the required *application* fees to the Zoning Administrator, who will review the application for completeness in accordance with [Section 2.2.1C \(Acceptance of a Complete Application\)](#).
2. If the subject lots are located in the AOC or FOC zoning districts per [Zoning Ordinance \(Article I\), Section 4](#), there shall be submitted to the Board of Supervisors an affidavit duly sworn by the owners of each of the lots setting forth the dwelling unit rights allocation among the lots, pursuant to, and in conformity with, [Zoning Ordinance \(Article I\), Section 3.7 \(Sliding-Scale Zoning – Allocation Disclosure\)](#).
3. *Processing and review shall be in accordance with the requirements for a minor subdivision, major subdivision, or administrative land division as applicable. A certified copy of the final decree shall be provided to the Zoning Administrator to confirm the court's partition order.*
- ~~3. The Zoning Administrator may forward copies of the application and supporting documents to applicable agencies and officials for written comments and recommendations.~~
- ~~4. Once the application is determined to be complete, the Zoning Administrator shall act to approve or disapprove the court-ordered partition plat application within 60 days of receipt of a complete application. If the application is disapproved and the applicant files a corrected application, the Zoning Administrator shall act to approve or disapprove the~~

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~~corrected application within 45 days of receipt of a complete corrected application.~~

~~5. Following approval of the plat by the Zoning Administrator, the applicant shall record the plat in the County land records in order for the lots to receive permits or other County approvals.~~

~~D. **Review Criteria.** The Zoning Administrator shall approve the court-ordered partition plat if it finds that the plat meets the requirements of this Ordinance, the Zoning Ordinance (Article I), the Code of Clarke County, the Code of Virginia, and any other applicable State or Federal regulations.~~

3.4 CONSTRUCTION PLAN REVIEW PROCESS

B. Review Procedures. Construction plans, if required, are reviewed in conjunction with the review of a subdivision application per [Section 3.2](#) or a non-subdivision application per [Section 3.3](#). The approval authority for construction plans shall be the *Zoning Administrator* approval authority for the subdivision or non-subdivision application with which the construction plans have been filed for review.

C. Required Components.

1. The required components of a construction plan are enumerated in [Section 4.3](#).
2. Construction plan design standards are set forth in [Section 4.5](#).

D. Action by the *Zoning Administrator Approval Authority*. The *Zoning Administrator approval authority* shall approve the construction plan, in conjunction with approval of the corresponding subdivision or non-subdivision application, if *they* ~~it~~ finds that the construction plan meets the requirements of this Ordinance, the [Zoning Ordinance \(Article I\)](#), the [Code of Clarke County](#), the [Code of Virginia](#), and any other applicable State or Federal regulations.

SECTION 4 – Plat and Construction Plan Requirements

4.1.1 Minor Subdivision

A. Required Components of a Minor Subdivision Plat Application.

4. Use of onsite sewage disposal systems. For any lot less than 40 acres in size, a report from the Virginia Department of Health (VDH) shall be provided evidencing suitability of soils for individual on-site septic systems with subsurface disposal. *County approval of an electrical resistivity testing report per [Code of Clarke County Chapter 143 \(Septic Systems\)](#) is a required component of a complete minor subdivision application.*

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4.1.2 Major Subdivision

A. Required Components of a Major Subdivision Plat Application.

7. Use of onsite sewage disposal systems. For any lot less than 40 acres in size, a report from the Virginia Department of Health (VDH) shall be provided evidencing suitability of soils for individual on-site septic systems with subsurface disposal. *County approval of an electrical resistivity testing report per Code of Clarke County Chapter 143 (Septic Systems) is a required component of a complete major subdivision application.*

B. Additional Required Documentation.

The following additional documentation shall be filed with a major subdivision application, if applicable:

1. Construction plans. Construction plans shall be provided in accordance with Section 4.3 for the construction of required infrastructure including but not limited to private access easements, *public roads*, public utilities, and common use elements.
2. Erosion and sediment control plan ~~required for certain major subdivisions.~~ ~~For major subdivisions resulting in five or more lots,~~ An erosion and sediment control plan demonstrating compliance with Code of Clarke County Chapter 148 (Erosion and Sediment Control) shall be submitted for review *if required by Chapter 148.* ~~Erosion and sediment control plan review is also required if construction of proposed infrastructure improvements for the major subdivision will result in land disturbance that requires plan review per Chapter 148.~~ For projects requiring compliance with State stormwater management regulations, the applicant shall also provide the stormwater management plan and accompanying documentation that was submitted for compliance review to the State stormwater management review authority.

4.1.3 Record Plat Requirements for Subdivisions

A. Record Plat Requirements

3. Required Statements. The following required statements shall be included on record plats as indicated:
 - a. The following statement shall be shown on the record plat of property located in the Agricultural-Open Space-Conservation (AOC) District:

EMERGENCY SERVICES NOTICE

The rural location of and limited access of this property, combined with adverse weather conditions, may delay or totally impede the timely response of emergency service agencies (police, fire, medical) despite their best efforts. The County of Clarke will not be subject to liability claims because of a delay in response from emergency service agencies resulting from the rural location of and limited access to the property.

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B. Items to Accompany Record Plat

1. Statement by the subdivider acknowledging that any percolation tests, topographic studies, or other *Virginia Department of Health* requirements ~~of the Health Official and/or Commission~~, in addition to and pursuant to [Section 4.5.6 \(Private Wells and Onsite Sewage Disposal Systems\)](#), will be carried out at the expense of the subdivider.

4.2.1 Administrative Land Division

A. Required Components of an Administrative Land Division Plat Application.

3. *County approval of an electrical resistivity testing report per [Code of Clarke County Chapter 143 \(Septic Systems\)](#) shall be provided for any new or modified onsite sewage disposal system proposed in conjunction with an administrative land division application.*

4.2.2 Boundary Line Adjustment

A. Required Components of an Administrative Land Division Plat Application.

4. Use of onsite sewage disposal systems. If a lot with an area equal to or greater than forty (40) acres is reduced in size below (40) acres by boundary line adjustment, the resultant lot shall comply with the private well and sewage disposal system requirements set forth in [Section 4.5.6](#). *County approval of an electrical resistivity testing report per [Code of Clarke County Chapter 143 \(Septic Systems\)](#) shall be provided for any new or modified onsite sewage disposal system proposed in conjunction with a boundary line adjustment application.*

4.3 Construction Plan Requirements

- ##### A. Required Components of a Construction Plan.
- A construction plan for required infrastructure improvements or any portion thereof involving engineering, landscape architecture, or land surveying shall be prepared by qualified persons and shall be certified by seal and signature of an engineer, landscape architect, or land surveyor licensed to practice by the Commonwealth of Virginia within the limits of their respective licenses. The construction plan shall contain the following components, as applicable:

14. Erosion and sediment control plan.

- b. For projects requiring an erosion and sediment control plan for general clearing and grading of the subject property and which involve no other substantive construction of required infrastructure, the construction plan requirements of this subsection may be waived by the *Zoning Administrator* ~~approval authority~~ and only the plan requirements of [Chapter 148](#) shall apply.

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- B. Additional Required Documentation.** Additional information as deemed necessary by the ~~approval authority of~~ Zoning Administrator shall be provided.

4.4.1 Boundary Line Adjustments – Special Regulations

- A. Lots Located in the Agricultural-Open Space-Conservation (AOC) District.** In the Agricultural-Open Space-Conservation Zoning District, the relocation or altering of property lines is permitted in the following cases:

4. Adjustments of boundary lines between adjoining residential lots where the total acreage in the subject lots is not increased except in the following situations:
 - b. Lots approved with a maximum lot size exception. No residential lot approved with a maximum lot size exception per *prior to [INSERT ADOPTION DATE], or by maximum area requirement exception per Zoning Ordinance Section 4.1.1A-3* shall be reduced in size by boundary line adjustment without approval *of a variance by the Board of Zoning Appeals* ~~by the Planning Commission~~ for one or both of the following hardship reasons:
 - To correct an encroachment of a driveway, onsite sewage disposal system, or a structure located on an adjacent lot
 - To aid in the repair of a failing onsite sewage disposal system located on an adjacent lot.
5. For the purposes of this subsection, a residential lot is a tract of under 20 acres with at least one dwelling unit right or existing dwelling; and an agricultural lot is a tract of 20 or more acres.

4.4.2 Subdivision of Land in the Forestal-Open Space-Conservation (FOC) District

- E. Required meetings and inspections.** The following meetings and inspections with the Zoning Administrator shall be conducted:

- ~~1. Pre-Application Site Visit. In addition to any required Pre-Application Conference, a site visit to the subject property shall be conducted. The purpose of the site visit is to ensure that the applicant, the applicant's engineer or surveyor, and County staff understand the subject property's vegetative and topographic characteristics. This site visit shall be conducted any time before or in conjunction with the Pre-Application Conference.~~

4.4.5 Administrative Land Divisions – Special Regulations

- B.** Utility installation on lots resulting from an administrative land division shall comply with all applicable design requirements set forth in [Section 4.5.4B](#). ~~The Zoning Administrator shall have the authority to act on behalf of the Planning Commission in applying [Sections 4.5.4B-1 and 3](#).~~

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4.5.3 Private Access Easements

B. General Regulations

4. Addition of lots to a major access easement. No proposed lots may utilize a major access easement as the primary means of ingress and egress to a public street unless one of the following requirements is met:
 - a. The nonconforming design features of the major access easement are brought into full compliance with current design standards in [Subsection C](#), subject to review and approval of a construction plan for the improvements.
 - b. The *Zoning Administrator approval authority* authorizes a waiver of the nonconforming design standards of a major access easement which would serve a proposed new lot or lots. Approval of such waiver is contingent upon the applicant obtaining written consent to the waiver by the owners of all lots served by the major access easement from the public road to the location of the proposed new lot or lots.

C. Design Standards

2. All private roads shall have a minimum width of 30-foot right-of-way, and any additional right of way necessary to include the travel surface and the drainage facilities necessary to carry the 2-year storm event. The maximum right of way width shall be 40 feet with 50 feet allowed for short distances when the *Zoning Administrator approval authority* determines there are unique site-specific circumstances.
4. All private roads serving three or more lots shall have travel ways which comply with all of the design standards listed below:
 - n. A minimum travel way side slope of 3:1 (horizontal: vertical) to the flow line of the ditch or the limit of the easement, however a slope of 2:1 may be approved by the *Zoning Administrator approval authority* if there are unique site-specific circumstances.

4.5.4 Public Utilities and Utility Easements

A. Public Utilities.

1. Where public water and/or public sewer facilities are available or required by the Clarke County Zoning Ordinance or the Code of Clarke County, ~~or may be reasonably required by the approval authority in the interest of the public health, safety and general welfare,~~ the service shall be extended to all lots within a subdivision and shall meet or exceed the regulations and specifications of the Clarke County Sanitary Authority and/or any other applicable federal, state, or local agency.

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4.5.6 Private Wells and Onsite Sewage Disposal Systems

- A. **Generally.** No subdivision shall be approved ~~by the approval authority~~ where private wells and/or onsite sewage disposal systems are to be used until written approval has been secured from the Virginia Department of Health (VDH) and the primary and reserve drain field areas for each septic system have been shown on the final plat. The VDH official shall determine the suitability of soil for the use of septic tank systems with sub-surface disposal and shall advise the approval authority of its findings. The VDH official may require percolation tests or other methods of soil evaluation in determining the suitability of the soil for sub-surface disposal. *Electrical resistivity testing per Code of Clarke County Chapter 143 (Septic Systems) shall be conducted for onsite sewage disposal systems and a report of such testing shall be filed with the Zoning Administrator for review and approval.* Percolation tests, *electrical resistivity testing*, and/or other soil evaluation shall be the responsibility of the developer, with supervision by the VDH official.

4.6.1 Deed or Deed of Dedication as Applicable

- B. **Required Conditions in Deed of Dedication.** Approval of a subdivision plat may ~~require be conditioned upon~~, among other things, the subdivider including in the deed of dedication of the property, and/or in the deed of conveyance for each lot within the subdivision, restrictive covenants required by this Ordinance and agreed to by the subdivider in hearings before the approval authority. In the event any lot or lots within a proposed subdivision are to be served by one or more private access easements, restrictive covenants as required by [Section 4.5.3B-8](#) of this Ordinance shall be included in the deed of dedication of the property and in the deed of conveyance for each lot so served.

4.6.2 Environmental Inventory and Impact Statement

A. Application

1. Inventory. Existing characteristics and conditions of the natural and cultural environment shall be addressed in the Statement, including, but not limited to, the topics listed below. Where applicable, the applicant shall be responsible for contacting the agencies or resources where listed for each topic and provide written documentation to the *Zoning Administrator Planning Commission* of existing (or lack of) these characteristics and conditions.

- B. **When Required.** The *Zoning Administrator approval authority* may require the subdivider to provide a Statement or to provide additional information or *clarification amplification* with respect to the Statement, ~~whether or not initially considered material by the Zoning Administrator, where the approval authority considers such to be material.~~

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4.6.3 Consumer Disclosure Statement

- A. **When Required.** Every application for subdivision of land shall include, as a part of said application, a Consumer Disclosure Statement; provided, however, this requirement may be waived or modified in whole or in part by the Zoning Administrator where ~~they do he does~~ not deem such Statement to be material. In any event, such Statement, or approved modification thereof, shall be included as a part of all applications for subdivision in which more than three lots are to be served by one or more private access easements. Unless otherwise modified by the Zoning Administrator, the Consumer Disclosure Statement shall include the following:
8. Such other information or documents, including financial information, as the **Zoning Administrator approval authority** may require as being reasonably necessary or appropriate for the protection of consumers.
- B. **Additional Information Required.** The **Zoning Administrator approval authority** may require the subdivider to provide a Consumer Disclosure Statement or to provide additional information or ~~clarification amplification~~ with respect to the Statement; ~~whether or not initially considered material by the Zoning Administrator, where the Commission considers such to be material.~~

SECTION 5 – Performance and Maintenance Guarantees – No changes identified

SECTION 6 – Enforcement – No changes noted

ARTICLE III -- DEFINITIONS

(NEW) ***Designated agent*** – *As defined in the Code of Virginia, the agent authorized by the Board of Supervisors to review and act on subdivision plats and site development plans.*