

ORDINANCE COMMITTEE

Date: January 26, 2010

IN Attendance: Council Members Terndrup (Chair), Baker, Le Vine, Mauck, Redmon, and Vena; Mayor Taylor, Town Planner Rex, Clerk Keller, Carla and Mil Wallen, Eunice Terndrup, Michael Terndrup, and Amber Merra of the NVD.

- I. The minutes from the November 23, 2009 meeting were approved as presented.
- II. Review of sign proposed by Hometown Strasburg, Inc.

Carla Wallen, representing Hometown Strasburg, showed a new rendering of a proposed sign Hometown would like to install on Route 11 beside Virginia Savings Bank. The sign would have a stone outline with LED lights advertising events taking place in the Town. The sign would not flash or have a rotating message. The cost of the sign would be approximately \$16,000, but she would like to involve local people in the building of the framework which might cut down on the cost. Planner Rex said he believes the sign shown would be allowed according to the Town's current ordinance.

Comments from Council Members:

Council Member Mauck would like for the Tourism Committee to study this sign. She also feels it might be better to place it closer to Founder's Landing as this is further away from the Historic District. *Mrs. Wallen said she has talked to Michael Funk, President of Virginia Savings Bank, about having employees of the bank keep the sign up-to-date. Having it at Founder's Landing might present a problem if no one would be willing to have the "controller" in their business.*

Council Member Le Vine said he is having trouble visualizing the LED lights as they are intense. He does think a sign is needed and knows "block" letters are not practical as far as changing the message. He thinks the sign can be made to look more historic, but his main concern is the LED lights. *Mrs. Wallen said they were considering using amber colored lights and not red.*

Council Member Terndrup expanded the idea further and asked for opinions as far as having a single sign, much like the proposed sign, for advertising businesses. **Council Member Le Vine** felt some of the value to a business might be lost to that business due to the rotation of the sign.

Consensus: Generally, the committee is in agreement of the idea of the sign, but requested Mrs. Wallen to take a picture of a sign actually in use similar to what is being proposed. Mrs. Wallen was also requested to find out more about the illumination issues.

- III. Recap of public input open house for sign regulations:

Council Member Terndrup said ideas from the open house included:

- Would like the Town to work with VDOT for more signage on the interstate
- Need for more directional signs coming into Town
- Discussed standardizing signs to possibly make them more visible

A survey has been developed and is posted on the Town's website. Signs will be discussed further at the March Ordinance Committee meeting, after the results of the survey can be reviewed.

- IV. Updates

➤ Ordinance regulating development on steep slopes: **Planner Rex** said Front Royal's Planning Commission recently sent a copy of an ordinance to Council for consideration. Copies of the ordinance were provided (attached here-to). Planner Rex explained there are areas in Town with steep slopes and there are many reasons to regulate steep slope areas. Planner Rex is going to come forward with a draft of a

steep slope ordinance for the next meeting. The Front Royal ordinance will be given to the Strasburg Planning Commission for comments. When writing the ordinance, comments regarding land that is flat, but has steep slopes on it and the issue of building on fill will be addressed.

- Blight abatement – 901 Capon Road: **Planner Rex** has talked to Mr. Eddie Campbell and will be meeting with him within a week. Mr. Campbell is very interested in doing something with the property and the house is too far gone to be restored. The Fire Department is interested in burning the house down, but more information on the house is needed.

The owner of the house on King Street is trying to sell the property, but has not. It was suggested to move forward with the next step of the abatement process. **Council Member Mauck** said there have been some complaints regarding a property on East Washington Street and what can be done about this.

- Development Review Process: Planner Rex explained the entire zoning and subdivision ordinance is being reviewed as there are some “missing pieces” and ways the Town can be better protected. A more comprehensive look is needed and this would be a good time to do this as the Community Plan is being developed. **Planner Rex** presented a “flow chart” of how reviews are done currently (attached here-to). One of the main problems Planner Rex has found is that developers can start construction without bonding. Other problems center on finishing streets. The Committee discussed how streets could be completed with curb and gutter and then the sidewalks be added later. Also, a warranty of two years could be included so that if the streets are damaged due to trucks, then the developer would need to complete repairs. **Council Member Le Vine** suggested adding the Code reference to the flow chart as this could help show where there are “holes” in the plan. This chart will also be shown to the Planning Commission before further discussion. Ideas should be relayed to Planner Rex.

- Historic District Design Guidelines: Planner Rex will be requesting funds from the Town’s current budget to hire a consulting firm to help in the writing of the guidelines. As the ordinance has been passed by the Council, not having the guidelines is putting the ARB at risk. It was asked if there is a set of guidelines that could be copied to help with the cost or having the Department of Historic Resources assist with this. **Planner Rex** said it is hard to take something from other communities and apply it to Strasburg, especially when dealing with architecture. It was suggested inviting Mr. David Edward, DHR representative, to an ARB meeting to discuss guidelines.

- Potential revisions to Chapter 86, Utilities, to reflect availability fee policy: **Planner Rex** discussed the recent meeting held with developers regarding this issue. He believes the Code will need to be refined to accommodate some of the ideas given. One idea that was generated at the meeting was locking in the fee rate, providing discounts for more than one tap, or allowing payments to be made in installments.

V. Action Item:

- Modifications to Section 38, Article II, Noise: During review of this Code modification, noise between different land uses was discussed. Planner Rex has revised the proposed ordinance to include a chart which indicates the maximum sound pressure level between land uses (ordinance attached here-to). He could not find an ordinance that addressed vehicle noise below 35 mph so that was left as presented earlier. Chief Sutherly has reviewed the ordinance and is in agreement with it and has ordered the meters. It was said the day and night hours within the

ordinance were not consistent and it was suggested changing to make them equal. Also, wording of “all others” will be added. **This will be included as an action item at the February Council meeting and voted on.**

VI. Discussion Items:

- Addition of Section 74-5, *Alteration and vacation of public rights-of-way*: In the proposed addition for alleys, Council will make the decision to vacate the entire alley and then the alley will be divided between the adjoining landowners. There would be no charge for the vacated land, but the land owner requesting the vacation would be responsible for the survey and recording fees. Planner Rex said many of the alleys in Town have not been maintained by the Town and many are already “privatized”. Vacations would be done on an application basis.

When discussing street vacations, it was said a clear definition between streets and alleys must be made. It was said the streets are wider and join two pieces of property and so it has more value to the owner who owns both sides of the street. Examples were given of where street rights-of-way are in Town. It was suggested to contact other localities to see how they vacated their alleys or streets.

- Revisions to Appendix A, Section 5, *Administration and Enforcement*, to enact civil penalties for zoning violations: Work is continuing on this.
- Revisions to Appendix A, Section 3-14, *Site Plan Requirements*: Discussed in conjunction with the Development Review Process
- Community Plan --- Planning Commission will be looking at the entire site area, showing the land uses and then the text portion of the plan will be drafted.
- Recommendation to the committee --- Council Member Terndrup said he would like to have the backing of the committee in proposing the hiring of a part-time zoning enforcement officer. He explained by hiring a person part-time, you eliminate the cost of benefits and the fees collected by the person could help pay the salary. During discussion, Council Member Le Vine pointed out possible repercussions of hiring new personnel when current personnel have gone without pay increases. He suggested adding this position to the five-year plan. It was also suggested utilizing the Police Department more in reporting zoning infractions they see in patrolling the Town.

Being no further business, the meeting adjourned at 8:06 p.m.

**AN ORDINANCE TO ENTIRELY REPEAL EXISITNG FRONT
ROYAL TOWN CODE SECTION 148-42 PERTAINING TO STEEP
SLOPES AND TO ENACT, IN ITS PLACE, A NEW SECTION 148-42
RELATING TO THE SAME SUBJECT.**

WHEREAS, the Code of Virginia expressly authorizes the Town Council to enact Ordinances which delineate standards for the development of real property located within the Town which contains steep slopes; and

WHEREAS, the said Town Council has previously adopted Section 148-42 of the said Town Code to provide such standards, but has now decided, in conjunction with the Town Planning Commission, to adopt an entirely new Ordinance on the same subject which will provide greater clarity as to said delineated standards; and

WHEREAS, after studying with its Planning Commission at some length, the said Council has determined that it is in the best interests of the Citizens of Town of Front Royal, Virginia, to enact a completely new Ordinance on this subject.

NOW THEREFORE, BE IT ENACTED by the Town Council of the Town of Front Royal, Virginia, that Section 148-42 of the Front Royal Town Code is hereby enacted as follows:

Section 148-42 of the Town Code of the Town of Front Royal, Virginia, as it presently appears in said Code, is, hereby, **entirely**

repealed, and in its place and stead, the following new Section 148-42, is, hereby, enacted:

SECTION 148-42 STEEP SLOPES

(A) Purpose

Steep slopes, when developed, require more grading and land disturbance than development of flat to gently sloping topographical areas. Therefore, the purpose of this section is to establish protective regulations to:

- (1) Minimize soil disturbance on steep or critical slopes due to the potential for erosion problems;
- (2) Assist in the prevention of soil erosion from storm water runoff, protect downstream buildings and yards from water and soil intrusion, and protect the Town's surface and groundwater resources from siltation and contamination;
- (3) Promote stable building sites that prevent soil erosion;
- (4) Promote accessibility for fire and rescue apparatus;
- (5) Maintain the visual and environmental resources that are part of the character of Front Royal; and
- (6) Encourage innovative development in Front Royal by providing the flexibility necessary to produce environmentally sensitive subdivisions which direct building, parking and street locations to terrain more suitable to development while maximizing conservation of the original slopes, native cover, prominent land forms, rocky outcrops, natural open space, wildlife habitat and scenic resources.

(B) Applicability

All proposed subdivisions which result in the creation of an additional building lot or lots with the exception of boundary line adjustments, must submit a plan, in addition to any required subdivision development, street construction or erosion & sediment control plan, identifying predevelopment areas of steep slope. Grading for the purpose of altering predevelopment slopes shall not be permitted.

(C) Establishment of Steep Slope Areas

The predevelopment slopes shall be computed by rise over run from naturally occurring contour lines based on topographic information showing two foot contour intervals and based on NAVD 88 vertical datum. The topographic data may be field run or from aerial photography, provided the information is current and the contouring method provides the precision expected for the contour interval used.

(1) **Identification of Steep Slope Areas.** Steep slopes areas are classified into one of the following two categories:

(a) All areas of slope between 15% and 25% which contain highly erodible, highly permeable or shrink-swell soils. Determination of soils which are highly erodible, highly permeable or shrink-swell shall be based on the USDA Soil Conservation Service Soil Survey of Warren County, Virginia, or based on soils analysis prepared by a geotechnical engineer or other appropriate licensed professional.

(b) All areas of slope greater than 25%.

(2) **Minimum Size of Steep Slope Area.** Steep slope standards do not apply to isolated steep slope areas that are less than 5,000 square feet in land area. For the purposes of this provision, the entire contiguous area of the steep slopes shall be included in the minimum size calculations, regardless of the number of individual lots or different land ownerships involved.

(D) Creation of Slope Overlays

The plan identifying steep slopes and critical slopes must include overlays over the entire tract involved identifying by color coding the following:

(1) All areas of slope between 15 to 25% which contain highly erodible, highly permeable or shrink-swell soils.

(2) All areas of slope greater than 25%.

(E) Plan Requirements

An overlot grading plan, prepared by a professional licensed by the State of Virginia to prepare such a plan, for the development, management, stabilization and preservation of steep slope areas shall be prepared in accordance with the detail requirements of Town Code Section 148 and upon submission of a report by a certified soil or geotechnical engineer, and/or other appropriate licensed professional, indicating if and how the steep slope may be safely developed.

The final subdivision plat showing any lot or portion of any lot located within a steep slope overlay area must contain a note stating that the property shown hereon is subject to the provisions of Section 148-42, Steep Slopes, of the Town of Front Royal Subdivision Ordinance, in accordance with the conditions shown on the approved overlot grading plan and/or geotechnical report filed with the applicable and appropriate subdivision application.

(F) Building Site Requirements

In addition to the requirements of the grading plan described herein, the plan shall include the following standards:

- (1) Site development shall be designed in a manner that requires a minimum amount of alteration to the steep slope.
- (2) Existing vegetation shall be preserved to the maximum extent possible.
- (3) No finished slopes are to be created with a final grade greater than 15% unless deemed feasible by a geotechnical report.
- (4) Driveways shall have a centerline grade of 10% or less. Side slopes for driveway cuts shall not exceed 4:1 unless deemed feasible by a geotechnical report.
- (5) Use of retaining walls is encouraged to reduce the steepness of man-made slopes and to provide planting pockets conducive to vegetation and landscaping. No retaining wall shall be greater than 42" in height from the finished grade unless designed by an engineer or other appropriate licensed professional. This provision is not intended to preclude a structure's foundation or basement wall or the creation of a walkout basement.

- (6) Landscaping and plantings shall be in accordance with Town Standards.

(G) As-Built Plan Required.

A post construction As-Built survey of the approved steep slope overlots grading plan shall be required prior to the issuance of an approved occupancy permit. The As-Built drawings shall clearly show any changes or variations from the approved design, and if deemed significant by the Director, may require any such change or variation be brought into compliance with the approved plan. The As-Built information shall be shown on the original plan and include the following:

- (a) Horizontal variations greater than 1.0 foot should be shown dimensionally or through plus stations. Horizontal variations greater than 5.0 feet should also show the graphic relocation of the object. Vertical elevation variations greater than 0.1 feet shall be provided for all shown design elevations.
- (b) All As-Built information shall be shown on the original plan either as blocked in or drawn in a different text style or font from that as shown on the original plan.
- (c) Each sheet of the plan shall contain the words "AS-BUILT" in bold text on or near the title block.
- (d) Date, plan legend, bar scale and north arrow.
- (e) Retaining walls. A stamped structural design is required for retaining walls over 42 inches in height.
- (f) Curb cut, driveway and material. Centerline grade of driveway with spot elevations.
- (g) Spot elevations of graded areas to determine grade of finished slope. Highlight all areas of finished slopes exceeding design grade by more than 1%.
- (h) Horizontal location with dimensions of all structures with dimensions including porches, decks, garages, etc. Show vertical elevations of first floor and basement floor.

- (i) Horizontal and vertical location of roof drains, foundation drains and other drainage outlets. Locations of utility services.
- (j) Location of required plantings.
- (k) The final as-built plan must be stamped by Licensed Land Surveyor or Professional Engineer and include certification that the As-Built plan is substantially in conformance with the original plan. If a geotechnical report is used, the appropriate licensed professional must certify that the As-Built is in conformance with the report.

(H) Exemptions

Except as otherwise provided herein, no disturbance of steep slopes will be allowed except for the following activities which may be permitted by exemption from the Director of Planning & Zoning:

- (1) Utility service lines, walkways, steps, landings.
- (2) Emergency action to remediate an unstable slope which poses an imminent threat to health, safety or welfare of the public.
- (3) Normal landscape maintenance or routine arboreal activities, including small scale planting of ornamental flowers or shrubs, and/or the removal of diseased or damaged trees, and/or the removal of undesirable trees, provided revegetation is in conformance with Town Standards.
- (4) Disturbance for public roadway or street crossings, or other public purposes as determined by the Director of Planning.
- (5) Construction of approved landscaping berms, drainage ditches or swales, ponds and dams and other required storm drainage conveyance facilities.

(I) Definitions

Slope: The steepness, incline, gradient or grade of the natural incline of the ground expressed as a percentage based on computations of rise over run between existing contours.

Slope, Steep: (1) Areas of slope of the natural incline of between 15% to 25% which contain highly erodible, highly permeable or shrink-swell soils. (2) Areas of slope of the natural incline greater than 25%.

Grading Plan: A map or drawing, other than a plat, prepared by the appropriate licensed *professional*, showing existing and proposed topography, environmental controls, demolition and/or improvements to the property in accordance with the requirements of this ordinance and/or other applicable local, state or federal regulations.

As-Built Plan: A map or drawing, other than a plat, prepared by the appropriate licensed professional, showing existing post construction topography in comparison to the proposed site improvements shown on the approved site plan.

Overlot Grading Plan: See 'Grading Plan'.

APPROVED:

Eugene R. Tewalt, Mayor

ATTEST:

Jennifer E. Berry, Clerk of Council

THIS ORDINANCE was approved upon second reading at the Regular Meeting of the Town of Front Royal, Virginia, Town Council conducted on _____, 2010, upon the following recorded vote:

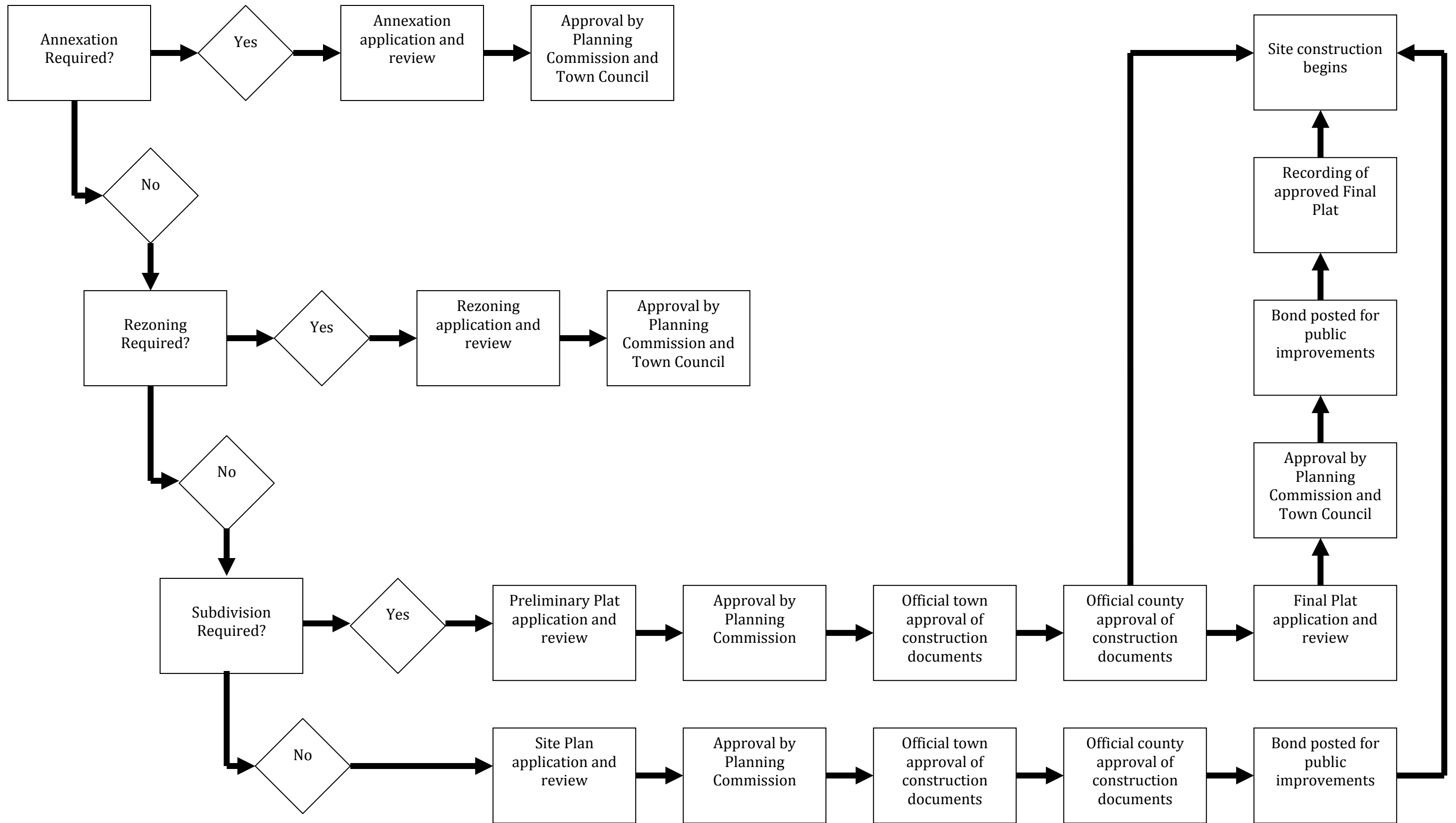
Thomas E. Conkey	<u>Yes/No</u>	Chris W. Holloway	<u>Yes/No</u>
Bret W. Hrbek	<u>Yes/No</u>	Carson C. Lauder, Jr.	<u>Yes/No</u>
Thomas H. Sayre	<u>Yes/No</u>	N. Shae Parker	<u>Yes/No</u>

A public hearing on the above was held on _____, 2010, having been advertised in the Northern Virginia Daily on _____ and _____, 2010. The Ordinance was enacted at the regular meeting of the Town Council held _____, 2010.

Approved as to form and legality:

Thomas R. Robinett, Town Attorney

Date: ____ / ____ / ____



**EXHIBIT A
PROPOSED NOISE ORDINANCE**

38-26 Findings, purpose, and intent.

38-27 Definitions.

38-28 Administration and Enforcement.

38-29 Violations.

38-30 Exceptions.

38-31 Maximum sound levels and residential dwellings.

38-32 Motor vehicle maximum sound levels; amplified sound from vehicles.

38-33 Specific prohibitions.

38-34 Sound levels; restaurants.

38-35 Severability.

38-26 Findings, purpose, and intent.

The Town of Strasburg finds and declares that:

1. Excessive sound, as defined and regulated in this ordinance, is a hazard to the public health, welfare, safety, and quality of life of the residents of Strasburg; and,
2. A substantial body of science and technology exists by which excessive sound may be measured and abated; and,
3. The residents of the Town have a right to and should be ensured an environment free from excessive sound that may jeopardize the public health, welfare, safety, or quality of life; and,
4. That it is the purpose and intent of this ordinance to prevent such excessive sound.

38-27 Definitions.

The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

Background noise level shall mean the aggregate of all sound sources impacting at the place where a specific sound generation is measured or evaluated, excluding the specific sound generation itself.

Decibel (dB) means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons

per square meter).

Emergency means any occurrence or set of circumstances involving actual or imminent physical injury or illness or property damage that requires immediate action.

Emergency work means any work performed for the purpose of preventing or alleviating the physical injury or illness or property damage threatened or caused by an emergency.

Gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

Instrument, machine, or device means and refers to any musical instrument, radio, phonograph, compact disc player, cassette tape player, amplifier or any other machine or device for producing, reproducing or amplification of sound.

Motor carrier vehicle engaged in interstate commerce means any vehicle for which regulations apply pursuant to section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

Motorcycle means any motor vehicle designed to travel on not more than three (3) wheels in contact with the ground and any four-wheeled vehicle weighing less than five hundred (500) pounds and equipped with an engine of less than six (6) horsepower, excepting farm tractors.

Motor vehicle means any self-propelled device or device designed for self-propulsion, upon or by which any person or property is or may be drawn or transported upon a street or highway, except devices moved by human power or used exclusively upon stationary wheels or tracks.

Noise means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Public area means any real property owned by the government, including, but not limited to, public rights-of-way, sidewalks, parks, and buildings.

Residential dwelling means any building or other structure in which one or more persons resides on a permanent or temporary basis, including, but not limited to, houses, apartments, condominiums, hotels, and motels.

Restaurant means any building or structure where in the normal course of business food or drink is available for eating on the premises, in consideration for payment. For purposes of this chapter, the term restaurant includes, but is not limited to, bars, lounges, taverns, coffee shops and cafes.

Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound generation means any conduct, activity or operation, whether human, mechanical, electronic or other, and whether continuous, intermittent or sporadic, and whether stationary or ambulatory in nature, which produces or results in an audible sound.

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and the A-frequency weighting network, as specified in American National Standards Institute specifications for sound level meters.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels.

38-28 Administration and Enforcement.

The Police Department of the Town of Strasburg shall be responsible for enforcement of the regulations established by this ordinance and may be assisted by other Town departments as required.

1. *Use of sound level meters.* The decibel level of any noise regulated by this ordinance shall be measured by a sound level meter. In order to administer and enforce this ordinance effectively, the Chief of Police or designee shall promulgate standards and procedures for using and testing sound level meters used in the enforcement of this ordinance.

38-29 Violations.

1. Any person who violates any provision of this ordinance shall be deemed to be guilty of a Class 3 misdemeanor for a first offense. Any person who violates a provision of this ordinance within one (1) year after a previous conviction under this ordinance shall be guilty of a Class 2 misdemeanor.
2. The person operating or controlling a noise source shall be guilty of any violation caused by that source. If that cannot be determined, any owner, tenant, resident, or manager physically present on the property where the violation is occurring is rebuttably presumed to be operating or controlling the noise source.
3. In addition to and not in lieu of the penalties prescribed in this section, the Town may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this ordinance and may seek any other remedy or relief authorized by law.

38-30 Exceptions.

No provisions of this ordinance shall apply to:

1. The emission of sound for the purpose of alerting persons to the existence of an emergency.
2. The emission of sound in the performance of emergency work.
3. Activities sponsored by the Town.
4. Activities authorized by a permit issued by the Town.
5. Activities for which the regulation of noise has been preempted by federal law.

38-31 Maximum sound levels.

1. No person shall permit, operate, or cause any source of sound to create a sound level greater than that found on the following table, when measured at or within the real property line of the receiving property.

Maximum Permitted Sound Levels (in dBA)				
		Receiving Property		
		Residential property, or the residential portion of a multi-use property	Commercial, industrial, or public property, or the non-residential portion of a multi-use property	
Source Property		7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.	24 hours
	Residential	55	50	65
	Commercial	65	50	65
	Industrial	65	50	65

2. *Measurements in multifamily dwellings or mixed use structures.* In a structure used as a multifamily dwelling or a mixed use structure, the police department may take measurements to determine sound levels from common areas within or outside the structure or from other dwelling units within the structure, when requested to do so by the residential occupant in possession and control thereof. Such measurement shall be taken at a point at least four (4) feet from the wall, ceiling, or floor nearest the noise source, with doors to the receiving area closed and windows in the normal position for the season.
3. *Exemptions.* The following activities or sources of noise shall be exempt from the daytime prohibition set forth in subsection (2) of this section:

- a. Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools, colleges, or universities.
- b. Athletic contests and other officially sanctioned activities in Town parks or facilities.
- c. Activities related to the construction, repair, maintenance, remodeling, demolition, grading, or other improvement of real property.
- d. Gardening, lawn care, tree maintenance or removal, and other landscaping activities.
- e. Agricultural activities.
- f. Church bells, carillons, or calls to worship by other sound-producing devices.
- g. Religious or political gatherings to the extent that those activities are protected by the First Amendment to the United States Constitution.
- h. Public transportation.

38-32 Motor vehicle maximum sound levels; amplified sound from vehicles.

1. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle, when measured at a distance of fifty (50) feet or more, exceeds the level set forth in the following table:

Vehicle Class	Sound Level (dBA)	
	Speed Limit is 35 MPH or less	Speed Limit is over 35 MPH
All motor vehicles of GVWR or GCWR of 6,000 lbs. or more	86	90
Any motorcycle	82	86
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76	82

2. This section shall not apply to any motor carrier vehicle engaged in interstate commerce.
3. Notwithstanding any other provisions of this section or ordinance, it shall be unlawful for any person to play or operate, or permit the playing, use or operation of, any radio, tape player, compact disc player, loud speaker or other electronic device used for the amplification of sound, which is located within a motor vehicle being operated or parked on public or private property within the Town, including any public or private street or alley, in such a manner as to be audible to the human ear at a distance of one hundred

(100) or more feet from the vehicle in which it is located.

4. The provisions of this subsection shall not apply to motor vehicles driven in a duly authorized parade, nor to motor vehicle alarms or other security devices, nor to the emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.

38-33 Specific prohibitions.

The following acts are declared to be violations of this ordinance. These specific prohibitions shall not be construed to limit, in any way, the general prohibitions contained in Section 38-31:

1. *Vehicle horns, signaling devices, and similar devices.* Sounding any horn, signaling device, or similar device on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space continuously or intermittently for more than ten (10) consecutive seconds, except when the sounding of any such device is intended as a danger warning.
2. *Non-emergency signaling devices.* Sounding or permitting the sounding of any amplified signal continuously or intermittently from any bell, chime, siren, whistle, or similar device intended primarily for non-emergency purposes from any one location for more than ten (10) consecutive seconds in any hourly period; provided, however, that this subsection shall not apply to the sounding of such devices by religious uses or by public bodies or agencies for testing, traffic control or other public purposes.
3. *Emergency signaling devices, security, burglar, and fire alarms, etc.* Sounding or permitting the continuous or intermittent sounding outdoors of any emergency signaling device, or any security, burglar, or fire alarm, siren, whistle, or similar device, including without limitation any motor vehicle security alarm, siren, whistle, or similar device, for a period in excess of ten (10) minutes in any residential area and fifteen (15) minutes in any other area, except in response to a burglary, attempted burglary, fire, or other emergency.
4. *Audio and audio-visual devices, musical instruments, etc.* The playing of any television, boombox, stereo, phonograph, radio, tape player, compact disc player, MP3 player, video player, musical instrument, drum, or any other device that produces, reproduces, or amplifies sound, including any such device in a motor vehicle, where the sound is plainly audible to any person other than the player(s) or operator(s) of the device and those who are voluntarily listening to the sound and is plainly audible and discernable at a distance of fifty (50) feet or more from the source of the sound; provided, however that the provisions of this subsection shall not apply to any outdoor performance, parade, gathering, dance, concert, show, sporting event, or other event sponsored by the Town or for which the Town has granted a permit.
5. *Construction equipment.* The operation of any bulldozer, crane, backhoe, front loader, pile driver, jackhammer, pneumatic drill, or other construction equipment between the hours of 9:00 p.m. and 7:00 a.m. except when operated in the course of emergency work or as authorized by the Town Manager.
6. *Commercial refuse collection.* Any garbage, recycling, or refuse containers that serve

commercial or industrial properties and are located within five hundred (500) feet of a residential dwelling shall only be serviced between the hours of 6:00 a.m. and 10:00 p.m.

38-34 Sound levels; restaurants.

No person shall permit, operate, or cause any source of sound to create a sound level emanating from a restaurant during the hours between 10:00 p.m. and 7:00 a.m. that:

1. Is in excess of seventy-five (75) dBA when measured from any public area, including but not limited to adjacent streets or sidewalks; or,
2. Is plainly audible and discernable at a distance of fifty (50) feet from any of the restaurant's external walls when measured from any property other than the property on which the restaurant is located.

38-35 Severability.

A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section, or part of this ordinance shall not affect the validity of the remaining parts thereto.