



PLANNING COMMISSION

AGENDA for June 8th 2021

This meeting will be held in a hybrid format both in-person and via Zoom. The meeting will take place in Council Chambers, City Hall, 2039 Sycamore Avenue. Participants must wear masks and practice social distancing. Two-way communication will be provided via Zoom for Planning Commission members and the public.

ZOOM call details:

Time: Tuesday May 11th 2021 7:00 PM
<https://us02web.zoom.us/j/86189807691>
Meeting ID: 861 8980 7691
(646) 558-8656

AGENDA

PUBLIC HEARING

- 1) Zoning Text Amendment, Section 802, Zoning and building permit procedures
- 2) Zoning Text Amendment creating Section 507, Frontage and Private Streets, to clarify street frontage requirements for new development, private streets, and street design standards;

REGULAR MEETING

Call to Order by Chairman and Roll Call

Public Comment

Review and Adoption of Minutes

Minutes of May 11th meeting

Report of Secretary

New Business

- 1) Discuss Site Plan for 2414 Ash Avenue and alley abandonment in 2400 block of Ash Ave
- 2) Zoning Text Amendment creating Section 507, Frontage and Private Streets,
- 3) Zoning Text Amendment, Section 630, Table of Setbacks

Adjournment

Members and Term Expirations

Dennis Hawes, Chairman, *7/31/2024*

Mike Ohleger, Vice-Chairman, *6/30/2022*

Sandy Burke, *8/31/2021*

Marolyn Cash, *6/30/2024*

Lucy Ferrebee, *9/30/2023*

Melvin Henson, City Council Representative,
9/30/2023

Kristie Gibbons, *12/31/2024*

Timothy Petrie, *12/31/2024*

Jason Tyree, Ex Officio member

Staff

Tom Roberts, Director of Community & Economic Development

City Hall, 2039 Sycamore Avenue, Buena Vista VA 24416

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Meetings

Members of the Buena Vista Planning Commission meet in Council Chambers, 2039 Sycamore Avenue, at 7:00 p.m. on the 2nd Tuesday of each month, unless otherwise announced. Meetings may be held and business conducted without a quorum, but no votes may be taken unless a quorum is present. A majority of members constitutes a quorum. A motion passes with a majority vote; a tie constitutes defeat of the motion.



PLANNING COMMISSION

MINUTES of May 11th 2021

Members of the Buena Vista Planning Commission met in Council Chambers and via Zoom at 7:00 PM on Tuesday, May 11th 2021.

Members Present:

Dennis Hawes, Chairman
Marolyn Cash
Lucy Ferrebee
Kristie Gibbons
Timothy Petrie
Melvin Henson, City Council Representative
Jason Tyree, Ex Officio member

Members Absent:

Michael Ohleger, Vice-Chairman
Sandy Burke

Staff Present:

Tom Roberts, Director of Community & Economic Development

Meeting is called into order and roll was called.

Minutes

Mr. Petrie moved to adopt the minutes of April 13th, 2021 as presented. Mrs. Ferrebee seconded, and all voted yes.

Secretary's Report

Mr. Roberts updated the Commission that another grant-funded tree planting was planned for later in May. Mrs. Cash expressed concern that Public Works was not adequately maintaining trees that we already have.

New Business

Discuss Zoning Text Amendment for conditional use permit expiration

Mr. Roberts explained that it came to his and the City Attorney's attention that the zoning ordinance currently states that conditional use permits expire upon change of ownership. This is not allowed by state code. Mr. Robert identified several other housekeeping changes related to conditional user permit procedures.

Mr. Hawes also raised the idea of extending the time period to start a conditional use once it has been approved from 6 months to 1 year.

There was some discussion over whether CUPs should have an expiration date at all. Mr. Roberts explained that Council can put an expiration date on a conditional use if the expiration is clearly related to the use, but the Commission agreed this is problematic.

Discuss alley abandonment in 2400 block of Ash Ave

Mr. Petrie asked about how the City determines what ROW it will abandon and what ROW it will not abandon, and whether it exposes the City to liability for seemingly arbitrary decisions. Mr. Roberts replied that the ROW abandonment policy doesn't directly address this, and it is a subjective analysis based on potential future use, but it is a legislative action by Council so they are given wide latitude in discretionary decisions. Mr. Petrie pointed out that the City does not want to appear arbitrary, whether there is legal liability.

Mr. Roberts noted that the only time he can remember recommending against an ROW abandonment was for a dead-end piece of Birch Ave. About 4 years ago an owner inquired and staff told him that the City wanted to keep it to maintain access to the creek.

The Commission had multiple questions about the planned development on this location. The applicant for the abandonment desires to build a house on the property, likely on top of the alley. The Commission's questions revolved around location of utilities, where access would be from the road, drainage, how the existing 24th St/Ash Avenue is maintained, etc. They asked about potentially requiring infrastructure improvements as a contingency of the abandonment.

Mr. Roberts explained that the current position of the City is that new construction of houses is allowed on existing substandard streets (such as this section of 24th St/Ash Ave) but new substandard streets may not be built or extended. Another example of an existing substandard street is the 1800 block of Pine Ave.

In recent years, the occupant of 2504 Ash Ave, Randy Stinnett, does most of the maintenance of the gravel road (24th St/Ash Ave). The City does not do much maintenance of this road even though it is a public ROW.

Mr. Roberts said that he had planned to take this abandonment to City Council on May 20th, but he would instead ask the applicant for a site plan at the next Planning Commission meeting.

Mr. Hawes motioned to recommend against the abandonment request until further information and a site plan had been received. All voted yes.

Setback discussion

Mr. Hawes brought up a specific building lot on a corner where the builder found that there is an additional setback requirement for corner lots. Mr. Roberts was aware of the particular lot and then cited the particular section of the zoning ordinance. Note (i) of the dimensional regulation table adds 15 feet to setbacks for corner lots. He continued that the purpose of this is to ensure visibility for vehicles in the street and coming out of alleys.

The Commission discussed the merits of this additional amount for corner lots, and how it decreases the amount of buildable space on the lot. Mr. Roberts agreed to draft language to reduce the amount added for corner lots.

Adjournment 8:30 PM

Approved: _____



PLANNING COMMISSION Staff Report

Zoning Text Amendment

Section 802 Zoning and building permit procedures

5/25/2021

Synopsis

Clean up administrative items in procedures for zoning permits, especially conditional use permits.

Summary:

- Change term “zoning and building permit” to “zoning permit” because they are separate permits
- Remove reference to prominently posting zoning permit on premises
- Expand conditional use permit evaluation criterion from only traffic volume to provisions of other City services
- Extend period of time for a conditional use permit to begin from 6 months to 1 year
- Repeal expiration of conditional use permit upon change of ownership

Analysis

Overview

This text amendment was spurred by discovering a provision of our code that is not allowed by Code of Virginia. Staff then found a few other minor administrative items to clean up in this section.

“Zoning and building permit” terminology

It appears that at one time, zoning and building permits were the same piece of paper and issued through the same process. This is no longer true. Different state and local codes apply to zoning permits and building permits. Staff propose removing the words “and building” from the phrase “zoning and building permit” where it occurs in this section to make it clear that these administrative procedures do not apply to building permits.

Additionally, staff propose removing language about permittees posting zoning permits in a prominent place on premises, like a building permit. This has not been the practice for a long time, if ever.

802.01 *Issuance and display.* The zoning administrator shall issue a zoning ~~and building~~ permit for any permitted use or structural alteration, provided such proposed use of land or structure, or structural alteration, is in conformance with the provisions set forth herein. ~~The zoning and building permit shall indicate whether the use is a permitted use, a conditional use, or a variance and shall be conspicuously posted and displayed on the premises during the period of construction or reconstruction.~~

Conditional Use Permit criterion

One of the criteria that the governing body must address when evaluating conditional use permits is the effect of the proposed use on traffic volumes. This is important but should be expanded to include other services such as utilities and emergency services.

(a) ~~The effect of the proposed use or special exception, on existing and projected traffic volumes in the neighborhood;~~ The provision of adequate public services including streets and other trafficways, utilities, and emergency services;

Conditional Use Permit expiration

Current code states that upon change of property ownership, a conditional use permit expires. It recently came to staff's attention that time limits for conditional use permits granted by City Council are not allowed by Code of Virginia. This makes sense in the context of other zoning law, because zoning is about the use—not the owner. If a use is permitted, then it doesn't matter who is doing it, generally. Staff propose repealing this one provision of the ordinance.

~~802.03-12 Upon change of ownership, any conditioned use permit for the property shall expire.~~

Below is an excerpt from the *Albemarle County Land Use Law Handbook* explaining this specific issue, with key phrases underlined. (The *Land Use Law Handbook* is the go-to reference for all Virginia localities on the ins & outs of Virginia land use law. I am happy to provide a link to this book if you want to go deep into the technicalities.)

One recurring issue of interest is whether a governing body may impose limitations on the life of a special use permit. BZAs have express authority to impose limitations on the life of a special use permit (*Virginia Code § 15.2- 2309(6)*), local governing bodies do not have such express authority. The governing body of the City of Norfolk is enabled to impose a condition on any special use permit relating to retail alcoholic beverage control licensees which provides that the permit will automatically expire upon the passage of a specific period of time. *Virginia Code § 15.2- 2286(A)(3)*. No similar express authority exists for other governing bodies for general purposes, and a number of localities have accordingly concluded that they do not have implied authority to impose such a condition. Some localities conclude otherwise. Under a Dillon Rule analysis, governing bodies are enabled to grant special use permits under “suitable regulations and safeguards.” *Virginia Code § 15.2-2286(A)(3)*. The General Assembly has not directed how or what those suitable regulations and safeguards must be. Therefore, if a time limitation (or the authority in the zoning ordinance to impose such a condition) is reasonable, the condition should be considered to be within a governing body's authority. An alternative solution to this question is to obtain the agreement of the applicant for such a condition. See *Board of Supervisors of Prince William County v. Sie-Gray Developers, Inc.*, 230 Va. 24, 334 S.E.2d 542 (1985) (subdivider may voluntarily agree to make improvements to existing access roads and will be bound to that agreement, even if the county did not have the authority to otherwise require such improvements as a condition of subdivision approval).

Conditional Use Permit Initiation

Current code states that once adopted, a conditional use permit expires six months after issuance if the use has not begun. Based on discussion with Planning Commission, staff propose lengthening this to one year.

802.03-10 A conditional use permit must be put into effect ~~six months~~ one year after the date the permit is issued, unless otherwise provided in the permit itself;



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City of Buena Vista Zoning Code Zoning and Building Permit Procedures §802.00

Sec. 802.00. Zoning ~~and Building~~ Permit Procedures

Zoning ~~and building~~ permits shall be issued in accordance with the following provisions and procedures:

802.01 *Issuance and display.* The zoning administrator shall issue a zoning ~~and building~~ permit for any permitted use or structural alteration, provided such proposed use of land or structure, or structural alteration, is in conformance with the provisions set forth herein. ~~The zoning and building permit shall indicate whether the use is a permitted use, a conditional use, or a variance and shall be conspicuously posted and displayed on the premises during the period of construction or reconstruction.~~

802.02 *Application procedure for permitted uses.* Applications for a zoning ~~and building~~ permit shall be submitted to the zoning administrator according to the following provisions:

802.02-1 An application for a zoning ~~and building~~ permit for a permitted use shall be accompanied by two copies of an acceptable site plan with such reasonable information shown thereon as shall be required by the zoning administrator. Such site plan shall include, as a minimum, the following: lot dimensions with property line monuments located thereon; location and size of existing and proposed structures; yard dimensions and the use of structures; easements (private and public); watercourses; fences; street names and street right-of-way lines; and such other information regarding abutting property as directly affects, the application;

802.02-2 Each application for a zoning ~~and building~~ permit, upon issuance of the permit, shall be accompanied by payment of a fee;

802.02-3 If the proposed use or construction described in the application required by [sub]section 802.02-1 [of this section] are in conformity with the provisions set forth herein and other appropriate codes and regulations of the City of Buena Vista, including but not limited to the required:

- (1) Health department approval of septic tank system;
- (2) Highway department entrance permit;
- (3) Flood insurance, floodplain ordinance;
- (4) Erosion and sediment control ordinance plan;

The zoning administrator shall sign and return one copy of the site plan to the applicant and shall issue a zoning ~~and building~~ permit. The zoning administrator shall retain the application and one copy of the site plan for his records;

802.02-4 If the application and site plan submitted describes work which does not conform to the requirements set forth herein, the zoning administrator shall not issue a zoning ~~and building~~ permit, but shall return one copy of the site plan to the applicant along with a signed refusal in writing. Such refusal shall state the reasons for refusal and shall cite the portions of this ordinance with which the submitted plan does not comply. The zoning administrator shall retain one copy of the site plan and one copy of the refusal.

802.03 *Application procedures for conditional uses.* Applications for a conditional use permit for a conditional use shall be submitted to the zoning administrator, who shall refer the application to the governing body for a public hearing. Applications for zoning permits for conditional uses must be submitted in accordance with the following procedures:

802.03-1 An application shall be accompanied by two copies of an acceptable site plan drawn in accordance with applicable provisions of [this] section 802.00 of this ordinance, with such reasonable information shown thereon as may be required by the zoning administrator. Such site plan shall include, as a minimum, the following: the dimensions with property line monuments located thereon; location and size of existing and proposed structures; yard dimensions and the use of structures; easements (private and public); watercourses, fences, street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application.

802.03-2 Each application for a zoning ~~and building~~ permit for a conditional use or other special exception shall be accompanied by payment of a fee as set forth in article 10 to help defray the cost of publicizing and conducting the public hearing;

802.03-3 The application shall be sent to the commission for review and recommendation, and said commission shall have 60 days within which to submit a report. If the commission fails to submit a report within a 60-day period, it shall be deemed to have approved the proposed conditional use;

802.03-4 The governing body shall consider the proposed conditional use or other special exception after notice and public hearing in accordance with Code of Virginia, § 15.2-2204, 1950, as amended, and shall take action on the proposed conditional use within 30 days from the date of the public hearing;

802.03-5 In evaluating the proposed conditional use or other special exception, the governing body shall address the following concerns:

- (a) ~~The effect of the proposed use or special exception, on existing and projected traffic volumes in the neighborhood; The provision of adequate public services including streets and other trafficways, utilities, and emergency services;~~
- (b) The current and future need for the proposed use in the City of Buena Vista; and
- (c) The character of the existing neighborhood and the effect of the proposed use or special exception on existing property values;

802.03-6 Conditions set forth in [subsection] article 802.03-5 [of this section] for the various conditional uses are minimum. In approving a proposed conditional use or other special exception, the governing body may stipulate such additional requirements as are

necessary to protect the public interest. The governing body may require the applicant to furnish a performance bond in an amount sufficient for and conditioned upon the fulfilling of any and all conditions and requirements stipulated by the governing body;

802.03-7 If the governing body approves the application for a zoning ~~and building~~ permit for a proposed conditional use, the zoning administrator shall issue a conditional use permit, indicating the conditional nature of the use;

802.03-8 If the governing body disapproves the application for a zoning ~~and building~~ permit for a conditional use or other special exception, the governing body shall inform the applicant of the decision in writing within 30 days from the date of the public hearing, stating the reasons for disapproval. The zoning administrator shall retain one copy of the site plan and one copy of the refusal, and shall keep them as a public record;

802.03-9 A property owner, or his appointed agent, shall not initiate action for a conditional use permit relating to the same conditional use affecting the same parcel of land more often than once every 12 months;

802.03-10 A conditional use permit must be put into effect ~~six months~~ one year after the date the permit is issued, unless otherwise provided in the permit itself;

802.03-11 Renewal of a conditional use permit does not require a public hearing unless the original conditions in the permit are changed, however notice of the renewal will be shown on the agenda of the city council;

~~802.03-12 Upon change of ownership, any conditioned use permit for the property shall expire.~~

802.04 *Application procedures for ordinance or map amendment.* The Buena Vista City Council may from time to time, amend these regulations or district maps whenever the public necessity, convenience, general welfare, or good zoning practice require. Any resolution or motion by the governing body or planning commission proposing the rezoning shall state the above public purposes therefor.

802.04-1 Applications for amendments initiate by any person, firm, or corporation owning the subject property shall be submitted in writing to the zoning administrator and shall be accompanied by two copies of an acceptable site plan, where applicable, of the proposed amendment with such reasonable information shown thereon as shall be required by the zoning administrator. Where site plans are required, they shall show, as a minimum, the following: lot dimensions with property line monuments located thereon; location and size of existing and proposed structures; yard dimensions and the use of structures; easements (private and public) watercourses, fences; street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application. Proposals for amendments not initiated by either the commission or the city council shall be accompanied by payment of a fee as set forth in article 10.

802.04-2 The commission shall consider the proposed amendment after notice and public hearing in accordance with Code of Virginia, § 15.2-2204, as amended. The commission shall then present the proposed amendment along with site plans and explanatory materials, where applicable, to the city council with its recommendations. If the commission fails to submit its recommendations within 60 days of the first meeting of the

commission after the proposed amendment has been referred to it, the commission shall be deemed to have approved the proposed amendment.

802.04-3 The Buena Vista City Council shall consider the proposed amendment after notice and public bearing in accordance with Code of Virginia, § 15.2-2200, 1950, as amended, and shall take action on the proposed amendment within 30 days from the date of the public hearing. The city council and the commission may hold a joint public hearing in accordance with Code of Virginia, § 15.2-2204;

802.04-4 Any petition, for an amendment may be withdrawn prior to action thereon by the city council at the discretion of the person, firm or corporation initiating such a request, upon written notice to the zoning administrator;

802.04-5 No more than one application for any amendment affecting a specific parcel of land may be initiated during any single 12-month period.

802.05 *Procedures for proffering conditions to zoning district regulations.*

802.05-1 *Intent.* The intent of this section is to provide (pursuant to Code of Virginia, §§ 15.2-2296 through 15.2-2303, 1950, as amended) to the zoning district regulations or the zoning district map;

802.05-2 *Proffer of conditions.* An owner may proffer reasonable conditions, in addition to the regulations established elsewhere in this ordinance, as part of an amendment to the zoning district regulations or the zoning district map. The proffered conditions shall be in writing and shall be made prior to the public hearing before the city council. In addition:

- (a) The rezoning itself must give rise to the need for the conditions.
- (b) The conditions proffered shall have a reasonable relation to the rezoning.
- (c) The conditions proffered shall not include a cash contribution to the city.

802.05-3 *Expiration.* Any zoning permit shall automatically expire six months from the date of issuance if the person, firm, or corporation to which the permit has issued has not clearly demonstrated that the permit is being exercised for the purpose for which it was issued, or if the work so authorized is suspended or discontinued for a period of one year.



Staff Report

Zoning Text Amendment

Section 507 Frontage and Private Streets

6/3/2021

Recommended Text Updates

The majority of the text of this new section was recommended for approval by Planning Commission, however, in the course of the Commission and City Council public hearings and other feedback, staff identified several other recommended changes to the text.

1. 507.02-2.02 added language to address multiple dwelling units on a single lot
 - a. This subsection lays out road construction standards for private streets. It bases standards on the number of lots served. The additional language reduces the chance of confusion or abuse if there are multiple dwellings on a single lot.
2. 507.02-2.06 added requirement for site plan review of any development with a private road.
 - a. This clarifies what review process is required for developments that include a private street. Most developments that will have a private street will already be going through the subdivision review process, PUD process, rezoning, or CUP process.
3. 507.02-2.07 added requirement that new private streets must be bonded in case the developer goes bankrupt during project.
 - a. This provision was suggested by Planning Commission and borrows language from the City's Planned Unit Development regulations.
4. 507.02-2.07 removed language about use of VDOT funds for improvement of private streets
 - a. This was a complex requirement which I had copied from Amherst County. The intention was to prevent developers using "back-door tricks" to build a substandard road then have VDOT pay to improve it. While a good method of protection for taxpayers, it does not apply in the same way to a City, and just adds confusion and encumbers future City Councils from road improvements that may one day make sense.
5. Renumbered 507.03 and subsequent sections for better organization
6. 507.03-4 added exception to road frontage requirement for public/private utilities
 - a. This says that a private utility (including telecommunications) facility can enter into an agreement with the City to have a private access road in a public ROW. This is an exception to the otherwise firm rule of no private drives in public ROW. There are a couple of these that exist already such as the extension of 34th Street up to the cell tower.
7. 507.04-3.1 removed some restrictive language on driveway access to lots. In urban contexts some lots may not have a driveway, and in some cases the driveway is at the rear of a lot off of an alleyway. The intent of the text (for emergency access) remains.

8. 507.05-2 addresses land clearing for vehicular access to land for temporary uses or uses that don't involve construction or require a permit. For example, if a property owner wished to traverse a paper street with a logging road in order to clear timber from a tract of land.
9. 302.04-4 better defines "driveway" by specifying that a driveway can only serve lots that possess required frontage on a street. This clarifies the difference between a driveway and a private street.



507 Frontage and Private Streets

DRAFT text – Additional suggested changes

3/1/2021

507.00 Frontage and Private Streets

507.01 Findings and Intent; standards promulgated

507.01-1 Adequate access to all properties is essential for the safety of persons and property. Emergency vehicles shall be able to access all properties and buildings in order to provide fire protection and medical services. Emergency vehicles are often larger and heavier than standard passenger vehicles and require special consideration in the design and construction of streets and driveways.

507.01-2 Streets, whether publicly or privately owned, are shared among multiple users who include both property owners and the general public. As shared spaces with multiple users, adequate legal agreements are essential to sustainable long-term maintenance of the roadway and other features of the street.

507.01-3 It is the intent of this ordinance to promulgate the goals of safe accessibility and long-term maintenance by regulating the construction of buildings in relation to streets and the use of land for public and private streets.

507.01-4 All references to City, State, Commonwealth, or VDOT standards mean the current version of the Virginia Department of Transportation (VDOT) Road Design Manual. The purpose of adhering to these standards is to ensure quality design and construction as well as eligibility for lane mile payments for public streets.

507.02 Except as otherwise stated, a principal building or structure may be erected, or a primary use established, only on a lot which possesses frontage on one of the following:

507.02-1 A public street accepted into and maintained as part of the road system of the City or Commonwealth;

507.02-1.01 For the purposes of frontage, a street is considered to be public if it has been dedicated as a future public street; the City has stated that it will accept this street in the future; it meets applicable design standards; and the cost of its construction is bonded with the City or otherwise financially ensured.

507.02-2 A private street which meets the requirements below. Private streets are intended to provide flexibility of site design in comprehensive residential and commercial developments where legal and organizational infrastructure exists to insure adequate long-term maintenance of roadways, and to provide cost-effective access to lots not directly abutting public streets.

507.02-2.01 Private streets are prohibited in public rights-of-way. If a public right of way is vacated by the City for the purpose of construction of a private street, the City may require dedication of an access easement and may reserve the right to buy back the right of way for future construction of a public street.

507.02-2.02 Private streets serving three (3) to ten (10) lots shall be constructed, at a minimum, to VDOT Standards for Mountainous Terrain. Private streets serving eleven (11) or greater lots shall, at a minimum, be designed to VDOT Rolling Terrain Standards. If any single lot to be served by a private street contains three (3) or more dwelling units, the street must be constructed at a minimum to VDOT Rolling Terrain Standards.

507.02-2.03 Traffic control devices, signage, and other features of private roads shall conform to accepted industry standards.

507.02-2.04 At each intersection of a private street and a public street, the City shall post a sign stating that the street is a private street.

507.02-2.05 A homeowners' association, deed of easement or other agreement, shall be established to provide for the permanent maintenance of the private street(s). The homeowners' association shall include, or the deed of easement or other agreement shall burden, all lots abutting the private street.

507.02-2.06 Site Plan required. Any development which involves construction of a private street must adhere to the site plan review process in Article 15, except such development which is otherwise subject to similar review as a Planned Unit Development, Zoning Map Amendment, or Conditional Use Permit.

507.02-2.07 Financial guarantee. Approval of a new private street shall be contingent upon the developer providing to the city a performance bond, cash, cashier's check or an irrevocable letter of credit acceptable to the City to ensure that measures could be taken by the city at the developer's expense should the developer fail, after proper notice, within the time specified, to construct and complete the private street. The amount of the bond or other security for performance shall not exceed the total of the estimated cost to construct the street and a reasonable allowance for estimated administrative costs and inflation which shall not exceed 25 percent of the cost of the construction. Should it be necessary for the city to undertake such construction, the city may collect from the applicant any costs in excess of the amount of the surety held.

507.03 Exceptions to frontage requirement

507.03-1 On a lot with a primary structure in existence on January 1 2020 and which abuts an existing private street or unimproved public street, new uses and accessory structures may be permitted.

507.03-2 Structures or uses may be erected or established on a lot which does not abut a public street as part of a Planned Unit Development (PUD) approved by City Council.

507.03-3 Non-residential structures or uses may be erected or established on a lot which does not abut a street, provided the Zoning Administrator has determined the following:

507.03-3.01 A permanent access easement has been recorded providing adequate vehicular access from the structure or use to a street

constructed to the standards of the city and dedicated as a public street;
and

507.03-3.02 Direct access from said structure or use to a public street is not feasible.

507.03-4 The City may enter into an agreement for construction or use of a private street in the public right-of-way to serve a public or private utility or telecommunications facility.

507.04 Minimum frontage

507.04-1 Except as otherwise stated, no principal building, structure, or use may be erected or established on any lot which does not possess the minimum street frontage specified for said building, structure, or use by this ordinance or by an approved Plan of Development. Street frontage requirements may be found in Section 630 Table of Setbacks, or elsewhere in this ordinance.

507.04-2 The minimum street frontage for any use in any zone, if not otherwise specified elsewhere in this code or in an approved plan of development, shall be 25 feet.

507.04-3 Minimum street frontage requirements may be reduced by a Special Exception approved by the Board of Zoning Appeals. The following conditions apply:

507.04-3.1 Adequate access to buildings and property for emergency responders and emergency vehicles must be provided.

507.04-3.2 The configuration of lots and streets shall be consistent with the development of a well-connected street grid as promulgated in the Comprehensive Plan. The creation of cul-de-sacs and dead-ends should respond to terrain features such as steep slopes or streams, or to other features that make extension of public streets infeasible.

507.04-3.3 The configuration of lots or their access shall not hinder or obstruct construction of future private or public streets. The Board of Zoning Appeals may consider the existence of access easements and future roadway reservations.

507.04-4 Where the principal building is located on the same lot as a private street or portion of a private street providing principal means of access to said building, frontage may be measured as the horizontal edge of the private street right-of-way located within the lot.

507.04-4 The entire portion of a lot which abuts a street constructed to the standards of the City and dedicated as a public street shall be improved to City standards by the developer when the lot is developed.

507.05 Access control and Driveways.

507.05-1 All driveway entrances and other access points to public streets are subject to the approval of the City Manager or his designee and compliance with other applicable requirements of the Land Development Regulations.

507.05-2 The City Manager or his designee may permit construction of a temporary private driveway across an undeveloped public right-of-way for the purpose of accessing land but not commencing permanent uses or constructing permanent structures. Property owner must submit application for Public Right of Way Construction. The following criteria shall be considered:

507.05-2.01 The anticipated volume and frequency of vehicular traffic on such driveway

507.05-2.02 The anticipated impact on surrounding streets in terms of physical condition, traffic, and safety

507.05-2.03 The anticipated environmental impact, including erosion and sediment control and storm water management

507.05-2.04 The design and materials of the driveway

507.05-2.05 Potential for future conversion of the driveway to a permanent public or private street

507.05-2.06 The anticipated impact of the driveway on surrounding property values

DEFINITIONS

~~302.04-4 Driveway means any private way thoroughfare provided for the principal purpose of providing vehicular access to an off-street parking area or service in the case of drive-in type uses.~~

A private way, serving one or more lots each of which possess required frontage on a public or private street, which establishes a vehicular connection between an off-street parking space or an off-street loading space and a street.

~~302.06-11 Frontage means the minimum width of a lot measured from one side lot line to the other, along a straight line on which no point shall be farther away from the street upon which the lot fronts, or from the front edge of the lot, than the building setback line as defined and required herein.~~

The horizontal length of the front lot line of a lot or parcel which abuts a street. If a lot has frontage on more than one street, frontage on one street only may be used to satisfy the minimum lot frontage.

~~302.20-11 Street means the principal means of access to abutting properties. [DUPLICATE DEFINITION]~~

~~302.20-12 Street centerline means a line generally parallel to the right-of-way lines divides the street right-of-way.~~

A line established as a center line of a street by any state, City or other official agency or governing body having jurisdiction thereof and shown as such on an officially adopted or legally recorded map. If there is no official center line of a street, the center line shall be a line lying midway between the street or right-of-way lines thereof. Where street lines are indeterminate and a pavement or a traveled way exists, the center line shall be established by the Zoning Administrator or shall be assumed to be a line midway between the edges of such pavement or traveled way.

~~302.20-14 Street, internal, means a private street providing access to lots within a development, but not including driveways.~~

~~302.20-16 Street, major, means a heavily traveled thoroughfare or highway that carries a large volume of through traffic, or anticipated traffic exceeding 500 vehicles per day.~~

~~302.20-17 Street, other, means a street that is used primarily as a means of public access to the abutting properties with anticipated traffic of less than 500 vehicles per day.~~

~~302.20-18 Street (road) means any public thoroughfare which affords the principal means of access to abutting property.~~

Street means any improved thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except an alley. Also known as a road.

Street, private means a street which is not publicly owned and maintained.

Street, public means a street owned, accepted, and maintained by the City of Buena Vista or other applicable governmental entity.



PLANNING COMMISSION Staff Report

Zoning Text Amendment
Section 630 Table of Setbacks
[Date]

Synopsis

Reduce the additional setback required for corner lots.

Analysis

Corner Setback

The table of dimensional regulations lists minimum front, side, and rear setbacks for primary and accessory buildings in many zones. Currently, note (i) on the table of dimensional regulations reads, "Add 15 feet for corner lots." This note is not fully explained but seems to mean that for corner lots, the side setbacks must be increased by this amount. As an example, in R3 the side setback for a primary building is as little as 5'. Note (i) increases the side setback on the street side (usually a numbered street) to 20'.

Staff researched corner lots in other Virginia localities. While exact numbers varied, for comparable residential zones to Buena Vista's R2 and R3, total required corner side yards were generally between 20' and 25'. Lexington is an exception; they have no additional setback for corner side yards.

The reason for having side setbacks in general is to provide fire separation, ventilation, circulation, density reduction, and aesthetic benefits to properties. Having larger or minimum setbacks for corner lots is intended to ensure good visibility at street corner. In the case of Buena Vista, it provides visibility for alley access also.

With this goal in mind, staff propose adopting a minimum 10 foot corner side setbacks in residential zones for both primary and accessory buildings. This would replace the "add X feet" formula.

- In R3, the effect would be going from a 20' minimum corner side setback to 10', plus the interior side setback would drop to 5' because both sides can add up to 15'.
- In R1 and R2, the effect would be that corner lots are treated the same as interior lots because the side setback is 15' on each side.
- In R4, the effect would be that corner lots are treated the same as interior lots because the side setback is 10' on each side.

Sec. 630.00. - Table of setbacks for all districts.

District	Permitted Use	Minimum Structure Requirement (see k below)	Minimum Lot Requirements				Minimum Yard Requirements (see l below)				Accessory Buildings				Other Requirements
			Public Water and Sewer	Other	Setback (see i below)	Frontage at the Setback Line	On Side	Two Sides	Rear	Max. Height	Main Building	Side Lot Line	Rear Lot Line	Height (a,b,c,d,e)	
C-1 Conservation	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
R-1 Low Density Residential	Single-family residential	1,200 sf single-family	12,500	21,780	35	100	15	30	35	35	10	5	5	35	N/A
R-2 Residential	Single-, two-family residential	1,200 sf single-family	9,375 sf	20,000	30	75	15	30	25	35	10	5	5	35	N/A
		2,400 sf two-family (1,200 each)	6,250 sf for each additional unit												
R-3 Residential Limited	Single-, two- and four-family residential (960 sf per unit)	960 sf single-family	6,250 sf	20,000	30	50	5	15	25	35	5	1	1	35	N/A
		960 sf per dwelling 2—4 family dwelling	3,125 sf for each additional unit												
R-4 Medium Density Residential	Single-family, multifamily	960 sf single-family	6,250 sf	20,000	30	50' for single- and two-family	10	20	25	35	20	10	10	35	Maximum density 15 units per acre

District	Permitted Use	Minimum Structure Requirement (see k below)	Minimum Lot Requirements				Minimum Yard Requirements (see l below)				Accessory Buildings				Other Requirements
			Public Water and Sewer	Other	Setback (see i below)	Frontage at the Setback Line	On Side	Two Sides	Rear	Max. Height	Main Building	Side Lot Line	Rear Lot Line	Height (a,b,c,d,e)	
			1,920 sf two-family (960 sf per unit)	3,125 sf for each additional unit		75' for three-family and greater									
		(see j below for efficiencies)													
R-5 Residential	Mobile home parks and subdivision	N/A	See table 2												
R-6 Planned Unit Development	Residential	N/A	Detailed plan required (see f below)												
B-1 General Business	N/A except for res. structures which are as shown for R-4	None	g	N/A	N/A	h	h	N/A	35'	20'	20'	15'	35'	N/A	
B-2 Planned Business	Commercial development	See B-1	None	g	N/A	N/A	h	h	N/A	35'	20'	20'	15'	35'	Detailed plan required (see f below)

District	Permitted Use	Minimum Structure Requirement (see k below)	Minimum Lot Requirements				Minimum Yard Requirements (see l below)				Accessory Buildings				Other Requirements
			Public Water and Sewer	Other	Setback (see i below)	Frontage at the Setback Line	One Side	Two Sides	Rear	Max. Height	Main Building	Side Lot Line	Rear Lot Line	Height (a,b,c,d,e)	
LM Light Manufacturing	Light industrial	N/A	None	G	N/A	N/A	25'	50'	N/A	45'	40'	20'	20'	45'	N/A
GM General Manufacturing	Industrial	N/A	None	G	N/A	N/A	25'	50'	N/A	45'	40'	20'	20'	45'	N/A
REC Recreational	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

- a. The height limit for dwellings may be increased by up to 45 feet and up to three stories provided each side yard is 20 feet, plus one foot or more of side yard for each additional foot of building height over 35 feet.
- b. A public or semi-public building such as a school, church, or library may be erected to a height of 60 feet from grade provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.
- c. Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, television antenna and radio aerials are exempt. Parapet walls may be up to four feet above height of the building on which the walls rest.
- d. Accessory buildings over one story in height shall be at least ten feet from any lot line. All accessory buildings shall not exceed the main building in height.
- e. For buildings over 45 feet in height, approval shall be obtained from the administration. Chimneys, flues, cooling towers, flagpoles, radio or communication towers, or their accessory facilities, not normally occupied by workmen are excluded from this limitation. Parapet walls are permitted up to four feet above the limited height of the building on which the walls rest.
- f. Densities and use variations are approvable based upon the plan submitted for the proposed development.
- g. For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator shall require greater area as considered necessary by the health official.

h. Property located in a business district, which adjoins any residential district, or is separated from any residential district only by a public street or way, shall have a ten-foot side yard on the side or sides adjoining or adjacent to the residential district.

i. ~~Add 15 feet for corner lots.~~ Minimum front setback requirements of this ordinance, for yards facing streets, shall not apply to any lot where the average setback on developed lots within the same block and zoning district and fronting on the same street is less than the minimum. In such cases, the setback on such lot may be less than the required setback, but not less than the average of the existing setbacks on the existing developed lots.

j. Multifamily efficiencies: 1-bedroom—320 square feet; 2-bedroom—390 square feet; 3-bedroom—460 square feet.

k. Heated living area, excludes garages, basements, patios, porches, etc.

l. On lots with frontage on two or more streets, the minimum setback on any side with street frontage is 10 feet for all primary and accessory buildings. This shall not apply to master planned developments in B2 Planned Business and R6 Residential Planned Unit Development.