

## LEXINGTON PLANNING COMMISSION

**June 8, 2023 - 5:00 P.M**

**Rockbridge County Administrative Offices – First Floor Meeting Room  
150 South Main Street, Lexington, VA 24450**

### AGENDA

- 1. CALL TO ORDER**
- 2. APPROVAL OF THE AGENDA**
- 3. APPROVAL OF MINUTES**  
Minutes from May 25, 2023\*
- 4. CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA**
- 5. NEW BUSINESS**
  - A. PS 2023-03: An application by Pierson Hotchkiss proposing a Preliminary Subdivision Plat (boundary line adjustment and boundary line vacation) for parcels located at 111 Rebel Ridge Road (Tax Parcels #21-2-20 & #21-6-A) and 597 Ross Road (Tax Parcel #22-1-3).
    - 1) Staff Report\*
    - 2) Applicant Statement
    - 3) Public Comment
    - 4) Commission Discussion & Decision
  - B. ZOA 2023-01: Annual Zoning Ordinance Amendments. Accessory Dwelling Units (A.D.U).
    - 1) Staff Report\* and continued Commission Discussion
    - 2) Public Comment
- 6. OTHER BUSINESS**
  - A. Zoning and Planning Report – If applicable
  - B. Key Annual PC Milestones: Ongoing. Remaining items:
    - 1) Zoning Text Amendments: Ongoing. Remaining items:
      - a. Cottage Housing
      - b. What else, if any?
    - 2) Comp Plan Review: Ongoing
    - 3) Major Project Update
- 7. CITY COUNCIL REPORT**
- 8. ADJOURN**

\*indicates attachment

## MINUTES

**The Lexington Planning Commission**  
**Thursday, May 25, 2023 – 5:00 p.m.**  
**Rockbridge County Administrative Offices – First Floor Meeting Room**  
**150 South Main Street, Lexington, VA 24450**

### **Planning Commission:**

Presiding: Blake Shester, Chair  
 Present: Pat Bradley  
 John Driscoll  
 Gladys Hopkins  
 Shannon Spencer  
 Leslie Straughan, Council Liaison  
 Matt Tuchler, Vice-Chair

### **City Staff:**

Arne Glaeser, Planning Director  
 Kate Beard, Administrative Assistant

Absent: Pat Bradley

### **CALL TO ORDER**

Chair Shester called the meeting to order at 5:04 p.m.

### **AGENDA**

The agenda was unanimously approved as presented. (S. Spencer / L. Straughan)

### **MINUTES**

J. Driscoll suggested amendments to the minutes to better clarify the discussion of amendments to the purpose section of the Planning Commission By-laws. The minutes from the May 11, 2023 meeting were unanimously approved as amended. (M. Tuchler / S. Spencer)

### **CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA**

None

### **NEW BUSINESS**

#### **A. ZOA 2023-01: Annual Zoning Ordinance Amendments. Accessory Dwelling Units (A.D.U.)**

1) Staff report and continued Commission discussion –

A. Glaeser opened the discussion by saying that if the Commission could get through the Nonconformities section of the staff report, a first draft of the ordinance could be reviewed at the next meeting. He added that the Appendix of actual Lexington ADU proposals might help to inform the discussion about how to address ADUs in existing, nonconforming structures. He began by suggesting language specifying that an illegal accessory dwelling in a detached structure must be approved through the conditional use permit process and must meet all code requirements. He recommended including such a provision in the event that an illegal detached ADU is identified in the future. Responding to a question from S. Spencer, he explained the distinction between an illegal nonconforming structure – in this case, any accessory structure being used as a dwelling unit, and a legal nonconforming structure – for

example, an existing accessory structure that is nonconforming with respect to one or more setbacks. J. Driscoll suggested adding language to the Roanoke example, specifically requiring that an illegal detached ADU must meet all code requirements for a CUP approval. L. Straughan suggested the language regarding adherence to code requirements be taken up after a determination was made about whether flexibility would be allowed for existing, legal nonconforming structures.

A. Glaeser next asked the Commission to consider whether, and to what extent, an ADU should be allowed in a legal, nonconforming accessory structure. He pointed to language from Bedford County prohibiting ADUs in structures that do not comply with all lot requirements, as well as examples from Arlington, Loudon and Fauquier Counties which provided varying degrees of flexibility for existing, nonconforming structures. He suggested the Commission consider which types of nonconformities, if any, it was comfortable with and which it was not. M. Tuchler asked if adopting language similar to the Arlington County example would allow the ADU proposal on Lime Kiln Road, discussed during a previous meeting. A. Glaeser confirmed it would, if the language were adopted without any further restrictions. S. Spencer objected to the Arlington example as too permissive. A. Glaeser then pointed to the Loudon County example as a way to allow an adjustment to the proposed 40% size cap in circumstances where the small size of the primary dwelling would so limit the size of an ADU as to make it unliveable, and to the Fauquier County example as a way to put parameters on the allowable square footage of an ADU proposed for an excessively large existing structure.

A. Glaeser suggested the Commission consider the ADU proposals included in the Appendix to determine what nonconformities, if any, might be acceptable. S. Spencer said she believed an existing structure located on the property line, such as in the Lime Kiln Road proposal, should not be allowed to be used as an ADU, due to the impact it would have on the neighboring property. L. Straughan suggested the conditional use permit process would be helpful in making determinations on a case by case basis. She observed that the proposed ADU structure at 30 Edmondson Avenue was also located on the property line, but because the property line was served by an alley, she thought it seemed better suited to the placement of an ADU. She added approval of the proposal on Lime Kiln Road would likely be dependent on how it was received by the neighbors. A. Glaeser cautioned that standards should be developed to provide guidance during the CUP process so that the impact to neighboring properties was not gauged solely on comments from neighbors.

A. Glaeser asked if the Commission wished to prohibit existing, nonconforming structures from being used as ADUs, to allow them to be used if certain conditions are met, or to allow any existing structure to be transitioned to an ADU, provided any nonconformity was not enlarged in so doing. Both S. Spencer and L. Straughan remarked that felt alleys provided additional space between properties that made ADUs on alleys feel more acceptable. L. Straughan added she liked the example that specified a maximum square footage of living space in cases where an existing accessory structure is larger than what is allowed. S. Spencer suggested the Commission may want to consider prohibiting ADUs located on alleys from having an entrance onto the alley. J. Driscoll reminded them that the earliest requests for ADUs in Lexington would likely be conversions of existing, nonconforming garages.

A. Glaeser again asked if there was any appetite to allow some leeway for an ADU in an existing structure that is nonconforming, or if the desire was to require ADUs only in structures that comply with all requirements. He pointed out that if the desire was to only allow detached ADUs in structures that comply with all requirements, the Lime Kiln Road proposal, for example, would not be allowable. B. Shester observed that each situation was different, as were the ways each proposal would impact its neighbors and the public rights of way. He indicated he would like there to be some flexibility to take into account that what may be unacceptable in one place may well be acceptable in another. L. Straughan agreed that there were instances in which nonconforming structures could work well as ADUs. J. Driscoll agreed that there should be some flexibility with conditions. He pointed to the Arlington County example as a way of building in some flexibility. S. Spencer said she felt strongly that setbacks were necessary, that perhaps they could be somewhat less than for the primary dwelling, but that they should be firm. M. Tuchler asked her to clarify her position with respect to structures located on an alley with no setbacks. She responded she was more comfortable allowing an ADU in such a structure, provided the entrance to the dwelling was on the side of the building not facing the alley. A. Glaeser stated additional accommodations could be made for alleys. L. Straughan said she agreed with S. Spencer that setbacks should be required, but would be comfortable allowing flexibility for structures located on alleys.

A. Glaeser suggested using the Arlington County example and adding a list of conditions under subsection (a). There was general agreement to include side and rear setbacks, alley way entrances, and maximum allowable living area in the list of conditions. A. Glaeser said staff would put together a draft list for future discussions and suggested the Commissioners think about whether other conditions should be added. S. Spencer reminded the Commission that the intent was to make it easier for future Planning Commissioners to make decisions. She also asked that staff highlight the language from Roanoke about illegal nonconforming structures to remind the Commission to give it future consideration.

A. Glaeser then asked the Commission to consider including language that explicitly specifies how square footage would be calculated. He read an example from Fauquier County and said similar language would be helpful for both staff and applicants to clarify what would and would not count toward the allowable square footage. There was general agreement to add the Fauquier County text, and S. Spencer asked that a portion of the text be highlighted for future consideration. A. Glaeser also recommended reiterating in the ADU ordinance the requirement that an accessory structure cannot be constructed without a primary dwelling existing on the parcel.

At J. Driscoll's request, A. Glaeser summarized the areas of the draft ordinance that needed more consideration. He indicated the staff report text highlighted in yellow and the entire nonconformities section would need to be finalized. L. Straughan remarked that the Washington Post article shared by J. Driscoll reported California's ADU size range as 850 – 1,200 square feet, considerably higher than the maximum size proposed for Lexington. She suggested the Commission may want to revisit the size caps. A. Glaeser added a minimum size could also be considered.

J. Driscoll said he would share an article about trends in Virginia that the Commission might find helpful as it finalizes the ADU ordinance. A. Glaeser said staff would provide a

rough draft for the next meeting which would include all the items discussed, still highlighted, as well as a couple of options for nonconformities.

2) Public Comment – None

## **OTHER BUSINESS**

A. Zoning and Planning Report – Director Glaeser reported the following:

- Because Harrisonburg dropped out of the regional charging and fueling infrastructure grant application for this round and the minimum grant requirements could not be met, Lexington will not be involved in an application this April. The CSPDC will submit an application for the region next year.
- M. Tuchler said he would be interested to know which municipalities receive these grants.
- He attended a Chamber of Commerce Government Affairs roundtable event with his counterparts from Buena Vista and Rockbridge County.
  - He attended the final Regional Housing Study training session regarding local real estate assessment data.
  - Responding to an observation made by B. Shester, he indicated he would be reaching out to a commercial property owner in the Entrance Corridor to determine if a COA application needed to be submitted for the property.
  - Responding to questions from Commissioners Driscoll and Shester, he confirmed the health center W&L intends to build on Denny Lane would need either a conditional use permit or master plan amendment approval, and that the site plan for the Williams School Expansion Building would likely be an agenda item for the Commission’s second meeting in June.

## **CITY COUNCIL REPORT -**

L. Straughan reported that City Council met on Thursday, May 18. Council unanimously approved the zoning ordinance amendment regarding minimum lot width requirements for multi-family dwelling units and asked the City Attorney to review portions of the Planning Commission discussion on this topic. At Council’s next meeting on June 1<sup>st</sup>, the City Manager will explain the process and results of the Request for Qualifications for the VDOT property on Waddell Street. One submission was received from Echelon Resources for a mixed used development of 200 apartments and retail space. Council will have a work session to hear a presentation on the proposal from the developer on Monday, June 5<sup>th</sup> at 7 pm in the Police Department training room.

## **ADJOURN**

The meeting was adjourned at 6:23 pm with unanimous approval. (S. Spencer / J. Driscoll)

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B. Shester, Chair, Planning Commission

**Project Name**                      Boundary Line Adjustment and Boundary Line Vacation for  
Parcels located at 111 Rebel Ridge Rd. & 597 Ross Rd.

**Property Location**              111 Rebel Ridge Road (Tax Map # 21-2-20 & # 21-6-A) and  
597 Ross Road (Tax Map # 22-1-3)

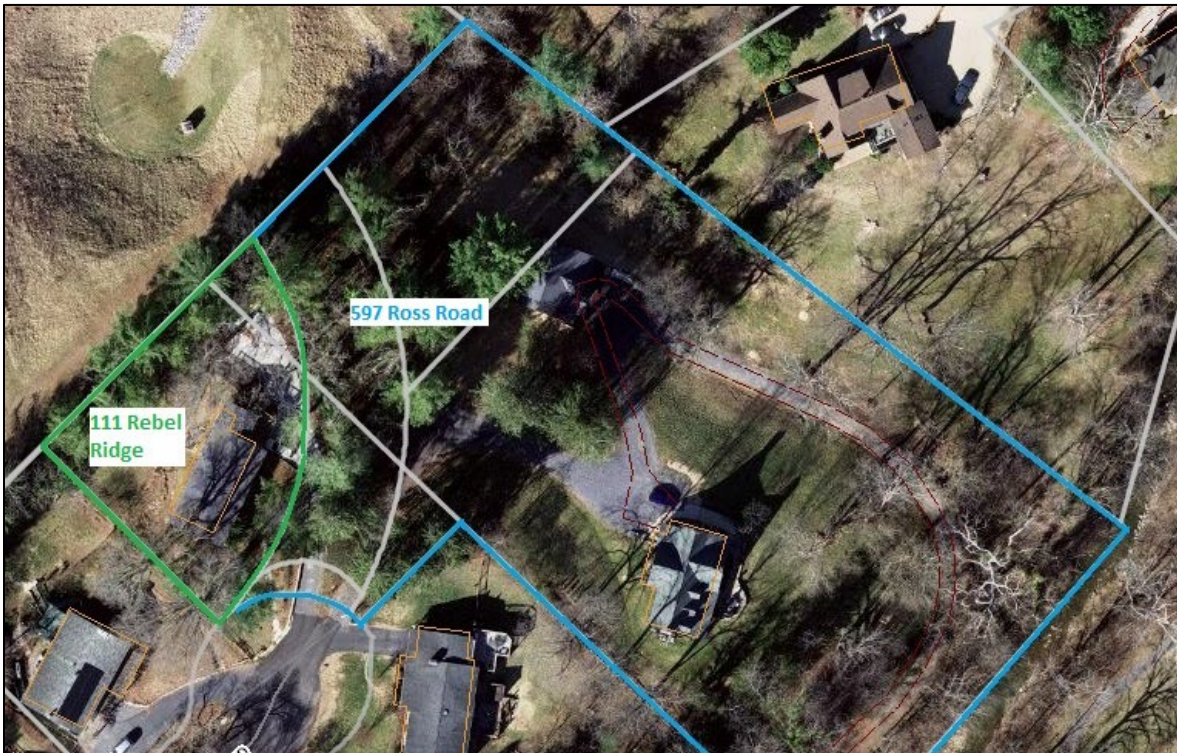
**Zoning**                                R-2 (Suburban Residential)

**Owner / Petitioner**              Christian and Margaret Haskett (owners of 111 Rebel Ridge  
road) and Charles and Julia Brown (owners of 597 Ross  
Road) / Pierson Hotchkiss

**Petitioner's Intent**              1) Add a portion of 597 Ross Road (Tax Map # 22-1-3) to 111  
Rebel Ridge Road (Tax Map # 21-1-20), and  
2) Vacate the boundary line between Tax Parcels #21-1-20  
and #21-6-A).

*PLANNING COMMISSION RECOMMENDATION: Pending  
STAFF RECOMMENDATION: Approval*

*location map*



## OVERVIEW OF REQUEST

The owners of 111 Rebel Ridge Road have listed their property for sale, and in anticipation of a sale, they request to a) vacate a boundary line between two existing parcels (TM#s 21-2-20 & 21-6-A) already owned by the applicants, and to b) adjust a boundary line so that all of the driveway that serves their residence is located on the same parcel as their residence. Currently, that portion of the driveway closest to the cul-de-sac at the end of Rebel Ridge Road, as well as a portion of the adjacent retaining wall and front yard of 111 Rebel Ridge Road are not located on the same parcel as the residence. The owners of 111 Rebel Ridge Road have entered into an agreement with their neighbor at 597 Ross Road to adjust the boundary line to wholly include all of the improvements that serve the residence at 111 Rebel Ridge Road on one parcel.

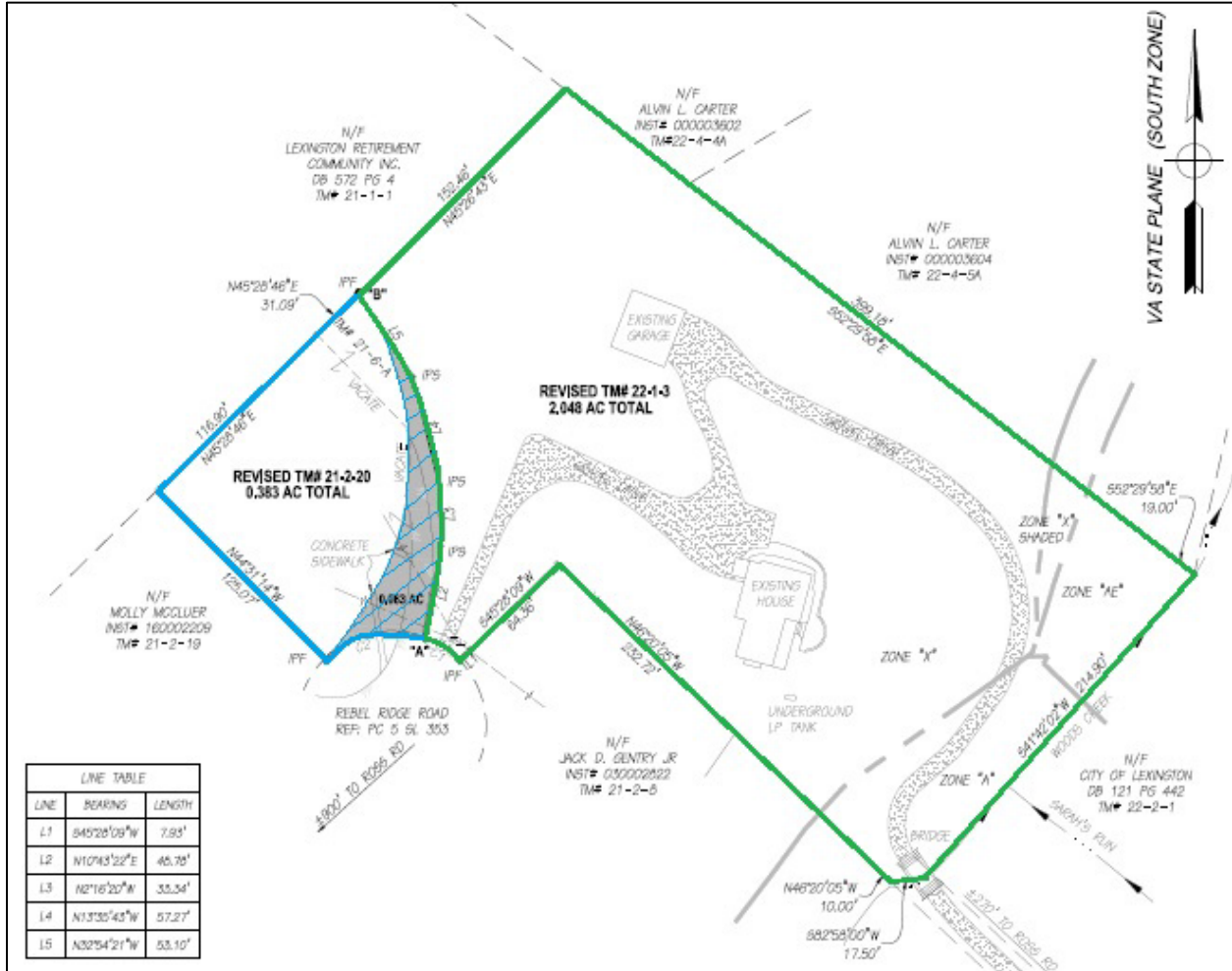
### *111 Rebel Ridge Road existing conditions*



The applicant therefore requests to add a portion of 597 Ross Road (Tax Map # 22-1-3) to 111 Rebel Ridge Road (Tax Map # 21-1-20) in accordance with the following plat provided by Perkins & Orrison. The blue hatched area in the following plat will be transferred from Tax Map parcel #22-1-3 to Tax Map parcel #21-2-20.

In addition to the boundary line adjustment, the applicant also requests to vacate the boundary line between Tax Parcels #21-2-20 and #21-6-A, owned by Christian and Margaret Haskett (outlined in blue below).

**Boundary Line Adjustment Survey**



**AUTHORITY TO REVIEW**

Sections 360-24 and 360-25 of the Lexington Subdivision Ordinance establish the review authority and procedures for the Planning Commission’s and City Council’s review of preliminary subdivision plats. The Planning Commission must review all preliminary plats and may recommend approval or denial. If the Commission recommends denial of a preliminary plat it must state the reason for its recommendation of denial and the specific changes that are necessary for the plat to be recommended for approval.

Upon receipt of the Planning Commission’s recommendation, the City Council shall review the preliminary plat and, within 60 days of the receipt of the Commission’s



recommendation, recommend approval or denial of the preliminary plat. Council may take no action on any preliminary plat until holding a public hearing in accordance with state law. Adjoining property owners shall be notified by first class mail of the pending public hearing, and a legal ad shall be published notifying the general public of the pending Council review.

### **STAFF REVIEW COMMENTS**

Nonconformities cannot be extended or enlarged, but nonconformities can be reduced. The parcel owned by the Hasketts is nonconforming with respect to lot width and the proposed boundary line adjustment will lessen that nonconformity. The subject parcels are located in the R-2 zoning district and the minimum lot width requirement for this zoning district is 80 feet. The current frontage along Rebel Ridge Road is approximately 10 feet, and the proposed boundary line adjustment will increase the lot width to 56.28 feet.

The reduction of frontage along Rebel Ridge Road for the property at 597 Ross Road is not a concern since that parcel has sufficient lot width, is provided access to Ross Road via a private alley, and retains a driveway access to Rebel Ridge Road.

Furthermore, Tax Parcel #21-6-A is nonconforming with respect to lot width, lot size, and lack of frontage along a public road. The proposed vacation of the boundary between Tax Parcels #21-2-20 and #21-6-A resolves these nonconformities.

### **PLANNING COMMISSION RECOMMENDATION**

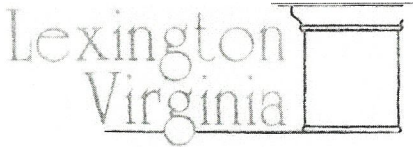
*Pending*

### **STAFF RECOMMENDATION**

Finding that the submitted preliminary plat has been properly drawn and that it is accompanied by those items, in proper form, required by the Subdivision Ordinance, and that the proposed subdivision conforms to the requirements and purposes of the Subdivision Ordinance, the Staff recommends that the preliminary plat be **APPROVED** as submitted.

### **SUGGESTED MOTION**

I move to approve/deny Preliminary Subdivision Application PS 2023-03 for a) the adjustment of boundary lines between 111 Rebel Ridge Road (Tax Map # 21-1-20) and 597 Ross Road (Tax Map # 22-1-3), and b) the vacation of the boundary line between Tax Parcels #21-1-20 and #21-6-A, in accordance with the Boundary Line Adjustment Plat for Christian Haskett & Margaret Shapiro Haskett, completed by Perkins & Orrison as submitted by the applicant.



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Planning & Development Department  
300 East Washington Street  
Lexington, Virginia 24450  
Phone: (540) 462-3704 Fax: (540) 463-5310

### SUBDIVISION APPLICATION AND CHECKLIST

#### Applicant<sup>1</sup>

Name: Nelson Hotchkiss Phone: 540-464-9001  
 Company: Peckins and Orrison Fax: \_\_\_\_\_  
 Address: 17 W. Nelson St Email: photchkiss@peckins-orrison.com  
 Applicant's Signature: [Signature] Date: 5/16/23

#### Subdivision Plat Preparer

Name: Nelson Hotchkiss Phone: 540-464-9001  
 Company: Peckins and Orrison Fax: \_\_\_\_\_  
 Address: 17 W. Nelson St Lexington Email: photchkiss@peckins-orrison.com

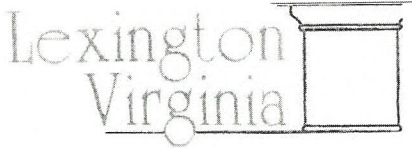
#### Property Owner

Name: Margaret Haskett Phone: 435-258-8212  
 Address: 111 Rebel Ridge Rd Lexington Email: \_\_\_\_\_  
 Owner's Signature: [Signature] (FOR HASKETT) Date: 5/16/23

#### Proposal Information<sup>2</sup> (attach list of properties if request includes multiple properties)

Address (or location description): 111 Rebel Ridge Road  
 Tax Map: 21-2-20 Deed Book and Page #: Instrument# 180001449  
 Acreage: 2.431 Total Zoning (attach any existing zoning conditions or proffers): R-2  
 Number of Lots Proposed: \_\_\_\_\_

1. Prior to submitting an application, the applicant is required to meet with staff for a pre-application meeting.
2. Any application deemed incomplete by staff will not be accepted.



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Planning & Development Department  
300 East Washington Street  
Lexington, Virginia 24450  
Phone: (540) 462-3704 Fax: (540) 463-5310

### Notice to Adjacent Property Owners

The City will give notice of public hearings to be held on the application to those persons who own property, any portion of which abuts the subject property, and all property which is directly across the street from any portion of the subject property, as determined by the City's real property tax records. This notice will give the date, time and place of the hearing, identify the property which is the subject of the application and give a brief description of the proposed action. Notices will be mailed a minimum of ten (10) days prior to the date of the scheduled City Council meeting.

### Posting of the Property

The City will place a sign on the subject property which indicates that an action is pending. The sign will be located to be clearly visible from the street.

### THIS SECTION TO BE COMPLETED BY STAFF ONLY

#### Application Fees:

Case Number: SUB- 2023 - 03

Preliminary Plat: \$500 + \$50 for each additional lot created

Amount Paid: \$125

Final Plat: \$0 *Boundary line adjustment: \$125*

Date Received: 5-16-2023 Received By: Arue

#### Staff Review

Planning: \_\_\_\_\_ Public Works: \_\_\_\_\_

Police: \_\_\_\_\_ Fire/Rescue: \_\_\_\_\_

#### Preliminary Plat Approvals

##### Planning Commission

Meeting Date: \_\_\_\_\_ Action: \_\_\_\_\_

##### City Council

Legal Ad Dates: \_\_\_\_\_ Adj. Property Notifications: \_\_\_\_\_

Public Hearing Date: \_\_\_\_\_ Action: \_\_\_\_\_

#### Final Plat Approval

Action:  Approved  Denied

\_\_\_\_\_  
Planning and Development Director

\_\_\_\_\_  
Date

## Preliminary Plat Checklist

Five (5) copies of the preliminary plat shall be submitted for review.

### Requirements

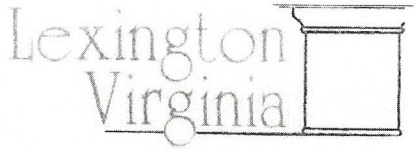
The preliminary plat shall adhere to the following requirements:

A. It shall be legibly drawn and may be on one or more numbered sheets. The scale shall be as follows:

- With lots smaller than one acre, one inch equals 100 feet.
- With lots one acre or larger, one inch equals 200 feet.

B. It shall show the following information:

- The date of the plat and the name of the surveyor or engineer preparing the same.
- Scale.
- Number of sheets comprising the plat.
- North meridian, designated true or magnetic and oriented to the top of each sheet; each sheet comprising the plat shall be so oriented.
- Name and signature of the owner.
- Name of the subdivision; the name shall not duplicate or too closely approximate that of any existing subdivision in the City or the County.
- City or county and state.
- Sources of data used in preparing the plat, particularly the deed book and page number of the last instrument in the chain of title.
- Names of all adjoining property owners and the location of each of their common boundaries, including established roadways and waterways.
- All pertinent natural and historical features and landmarks.
- The boundary lines of the proposed subdivision and of any larger tract of which the subdivision forms a part, shown on a reduced scale insert.
- All adjoining roads and streets with their numbers and/or names.
- All subdivision, corporate boundary lines, public highways and other public rights-of-way, if any, within 1,000 feet, shown on a reduced scale insert.
- Boundary lines and total acreage of the proposed subdivision and the acreage remaining in the original tract, if any. In case only a part of a tract of land is proposed for subdivision, the agent may require the preliminary plat to show a proposed future subdivision of such remaining acreage or a part thereof to make certain that proper orientation of future streets may be developed with the platted streets.
- Location of existing buildings within the subdivision and within 200 feet thereof.
- Location and description of all existing monuments.
- Location of existing and proposed easements, water and sewer mains, and drainage facilities,



with existing and proposes utility installations.

- Contour lines, existing and finished, as required for approval of drainage and sewer facilities.
- Proposed locations, widths, and names of all streets.
- The approximate location and number and the propose uses of all lots and other areas, including watercourses, impoundments, lakes, and those areas being used for parking, recreation, commercial purposes, or for public or governmental use.
- Proposed lot lines, lot numbers, and block letters.
- If the proposed subdivision consists of land acquired from more than one source of title, the outlines of the several tracts shall be included on the preliminary plat by broken lines, and identification of such respective tracts shall be shown on the preliminary plat. The same information shall be included if any portion of the subdivision is situated in the county.

### Items to Accompany the Plat

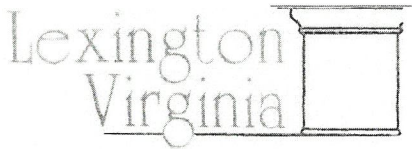
#### A. Statements by the subdivider as follows:

- Certification that requirements relating to water and wastewater services, storm drainage, streets, curbs, gutters, sidewalks and such other improvements as may be required by the Commission or agent of Council under the provisions of this chapter will be carried out at the subdivider's cost.
- Indication of location, proposed use and acreage of any portion of the proposed subdivision, other than streets, which the subdivider proposes to dedicate or reserve for public use or for the common use of future property owners of the subdivision.
- Summary of proposed restrictive covenants and reservations.

#### B. A check payable to the City of Lexington to cover required fees.

C. Certification by the agent that the proposed subdivision complies with this chapter and all other pertinent ordinances of the City and that after of the preliminary plat and consultation with the subdivider the agent is satisfied that proposed improvements as required by this chapter are or will be adequate to their purposes. The agent, Commission or Council may, at his or its option, require certification by a qualified engineer or other professional that the propose improvements will be adequate to the proposed use. Cost of the certification shall be borne by the subdivider. The agent may indicate his certification by his signature on the face of the preliminary plat or the agent may note substantial approval of the preliminary plat with certain required modifications to the preliminary plat set forth in an attached document.

D. Certification by a qualified land surveyor or professional engineer that drainage facilities are adequate, that existing downgrade drainage facilities are adequate to carry the increased burden, that no private property will be subject to materially increased flow and that facilities installed will be adequate to carry channeled surface water from any development at a higher elevation in the same drainage basin.



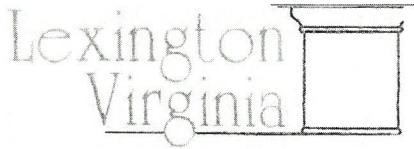
## Final Plat Checklist

Six (6) full size copies of the final plat and two (2) copies eight by 14 inches in size shall be submitted.

### **Requirements**

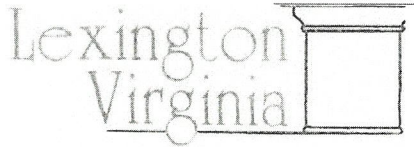
The final plat shall adhere to the following requirements:

- A. The final plat shall be prepared by a certified land surveyor or other qualified professional who shall endorse upon such a plat a certificate signed by him setting forth the source of title of the land subdivided and the place of record of the last instrument in the chain of title.
- B. The final plat shall be substantially in accordance with the preliminary plat (together with any changes or additions for its approval), except that a final plat may include all or any part of the area covered by the preliminary plat.
- C. The plat shall be legibly and accurately drawn upon sheets not more than 17 inches by 22 inches in size. There shall be a one-fourth-inch border on each side. The plats shall be drawn at a scale of one inch equals not more than 200 feet. The agent may, at his discretion, permit different suitable scales for plats of dedication or other special plats. If the subdivision is shown on several sheets, match lines shall clearly indicate where the several sheets join.
- D. It shall show accurately the following information:
  - The date of the plat and the name of the surveyor or engineer preparing the same.
  - Scale.
  - Number of sheets comprising the plat.
  - North meridian, designated true or magnetic and oriented to the top of each sheet; each sheet comprising the plat shall be so oriented.
  - Name and signature of the owner.
  - Name of the subdivision; the name shall not duplicate or too closely approximate that of any existing subdivision in the City or the County.
  - City or county and state.
  - Sources of data used in preparing the plat, particularly the deed book and page number of the last instrument in the chain of title.
  - Names of all adjoining property owners and the location of each of their common boundaries, including established roadways and waterways.
  - Location and description of all existing monuments.
  - If the proposed subdivision consists of land acquired from more than one source of title, the outlines of the several tracts shall be included on the preliminary plat by broken lines, and



identification of such respective tracts shall be shown on the preliminary plat. The same information shall be included if any portion of the subdivision is situated in the county.

- A boundary survey to an accuracy of one part of 5,000.
  - Location and dimensions of all lot and street lines and center lines of all streets, both within and adjoining the subdivision; names and widths of all streets; and boundaries of all easements, school sites, parks or other public areas.
  - Building setback lines, shown as dashed lines with dimensions to front property line along each street, and length of setback line within each lot.
  - All dimensions shown in feet and decimals of a foot to the closest 1/100 of a foot and all bearings and degrees, minutes and seconds to the nearest 10 seconds.
  - Curve data showing radius, delta and arc either at the curve or in a curve data table.
  - Location and approximate bearing of all property lines intersecting the subdivision perimeter boundary.
  - Block letters and lot numbers.
- E. If any land or water areas are being dedicated or reserved for streets, parking space, for other public use or for the common use of future property owners of the subdivision, the final plat shall so state and indicate which land or water areas are dedicated or reserved.
- F. The final plat shall have appended to it an unexecuted copy of a proposed certificate of owner's consent for subdivision suitable for recording, containing a statement to the effect that the subdivision is with the free consent and in accordance with the desire of the owners, proprietors, trustees, and lienholders thereof, as applicable, and setting forth in full all restrictive covenants, reservations and dedications applicable to the proposed subdivision.
- G. The final plat shall provide on the first sheet space for (form available upon request from the Building and Zoning Administrator):
- The surveyor's certificate as to title pursuant to the requirements of Subsection A of this section.
  - The surveyor's certificate as to monuments pursuant to the requirements of § 360-7C.
  - All restrictive covenants, or reference thereto.
  - Space for approval of the agent. The agent's approval shall state that to the best of the agent's knowledge and belief the proposed subdivision as set forth in the final plat complies with all pertinent ordinances and other requirements of the City and that the final plat is substantially in accordance with the plan of the subdivision as submitted to and approved by the Commission and Council in the preliminary plat.



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**Planning & Development Department**  
 300 East Washington Street  
 Lexington, Virginia 24450  
 Phone: (540) 462-3704 Fax: (540) 463-5310

### Items to Accompany the Plat

- A. Certification by the agent, where improvements shown on the preliminary plat have already been installed, that such improvements as installed are acceptable and in conformity with current requirements.
- B. If all improvements required under this chapter are not completed, a cash bond, certified check or surety performance bond as required in § 360-15B.
- C. A check payable to the City of Lexington to cover all required fees.
- D. An unexecuted copy of the proposed deed of dedication, if required, accompanied by a certificate signed by the subdivider and duly acknowledged before some officer authorized to take acknowledgments of deeds, to the effect that this is a true copy of the proposed deed of dedication which will be presented for recordation. Such copy shall:
  - Contain a correct description of the land subdivided and state that such subdivision is with free consent and in accordance with the desire of the undersigned owners, proprietors and trustees, if any.
  - Contain language such that when the deed is recorded, it shall operate to transfer in fee simple to the City such portion of the platted premises as is on such plat set apart for streets, easements or other public use and to create a public right of passage over the same.
  - Contain all protective or restrictive covenants, including those referred to in § 360-28H(3).
- E. An erosion and sedimentation plan approved by the appropriate agent in accordance with Chapter 178, Erosion and Sediment Control, of the Lexington City Code.



**NOTES:**

1. THIS SURVEY HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT INDICATE ALL ENCUMBRANCES UPON THE PROPERTY. SOURCE OF TITLE AND ADJOINING INFORMATION OBTAINED THROUGH CITY OF LEXINGTON GIS.
2. THIS PLAT HAS BEEN PREPARED FROM A CURRENT FIELD SURVEY PER THE DATE OF THIS PLAT.
3. THE PURPOSE OF THIS PLAT IS TO VACATE TM# 21-6-A & ADD A 0.63 AC PORTION OF TM# 22-1-3 TO TM# 21-2-20 SHOWN AS LINES "A" THROUGH "B".
4. A PORTION OF THIS PROPERTY IS LOCATED IN ZONE "AE" SHADED, "A" SHADED, "X" SHADED AND "X" UNSHADED AS DETERMINED BY FEMA AND SHOWN ON PANELS #051163C0262C & 51163C0264C DATED APRIL 6, 2000

**OWNERS CONSENT**

THE BOUNDARY LINE ADJUSTMENT BETWEEN TM# 21-2-20 & 22-1-3 & VACATION OF TM# 21-6-A IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS.

CHARLES W. BROWN \_\_\_\_\_ DATE \_\_\_\_\_

JULIA R. BROWN \_\_\_\_\_ DATE \_\_\_\_\_

COMMONWEALTH AT LARGE TO WIT:  
STATE OF VIRGINIA

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_ A NOTARY PUBLIC IN AND FOR THE AFORESAID STATE, DO HEREBY CERTIFY THAT THE OWNERS WHOSE NAMES ARE SIGNED ABOVE HAVE ACKNOWLEDGED THE SAME BEFORE ME.

MY COMMISSION EXPIRES: \_\_\_\_\_

NOTARY PUBLIC \_\_\_\_\_ DATE \_\_\_\_\_

NOTARY REGISTRATION NUMBER: \_\_\_\_\_

CHRISTIAN HASKETT \_\_\_\_\_ DATE \_\_\_\_\_

MARGARET SHAPIRO HASKETT \_\_\_\_\_ DATE \_\_\_\_\_

COMMONWEALTH AT LARGE TO WIT:  
STATE OF VIRGINIA

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_ A NOTARY PUBLIC IN AND FOR THE AFORESAID STATE, DO HEREBY CERTIFY THAT THE OWNERS WHOSE NAMES ARE SIGNED ABOVE HAVE ACKNOWLEDGED THE SAME BEFORE ME.

MY COMMISSION EXPIRES: \_\_\_\_\_

NOTARY PUBLIC \_\_\_\_\_ DATE \_\_\_\_\_

NOTARY REGISTRATION NUMBER: \_\_\_\_\_

**SURVEYORS CERTIFICATE**

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL OF THE REQUIREMENTS OF THE CITY OF LEXINGTON, VIRGINIA, REGARDING THE PLATTING OF SUBDIVISIONS HAVE BEEN COMPLIED WITH.

GIVEN UNDER MY HAND THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

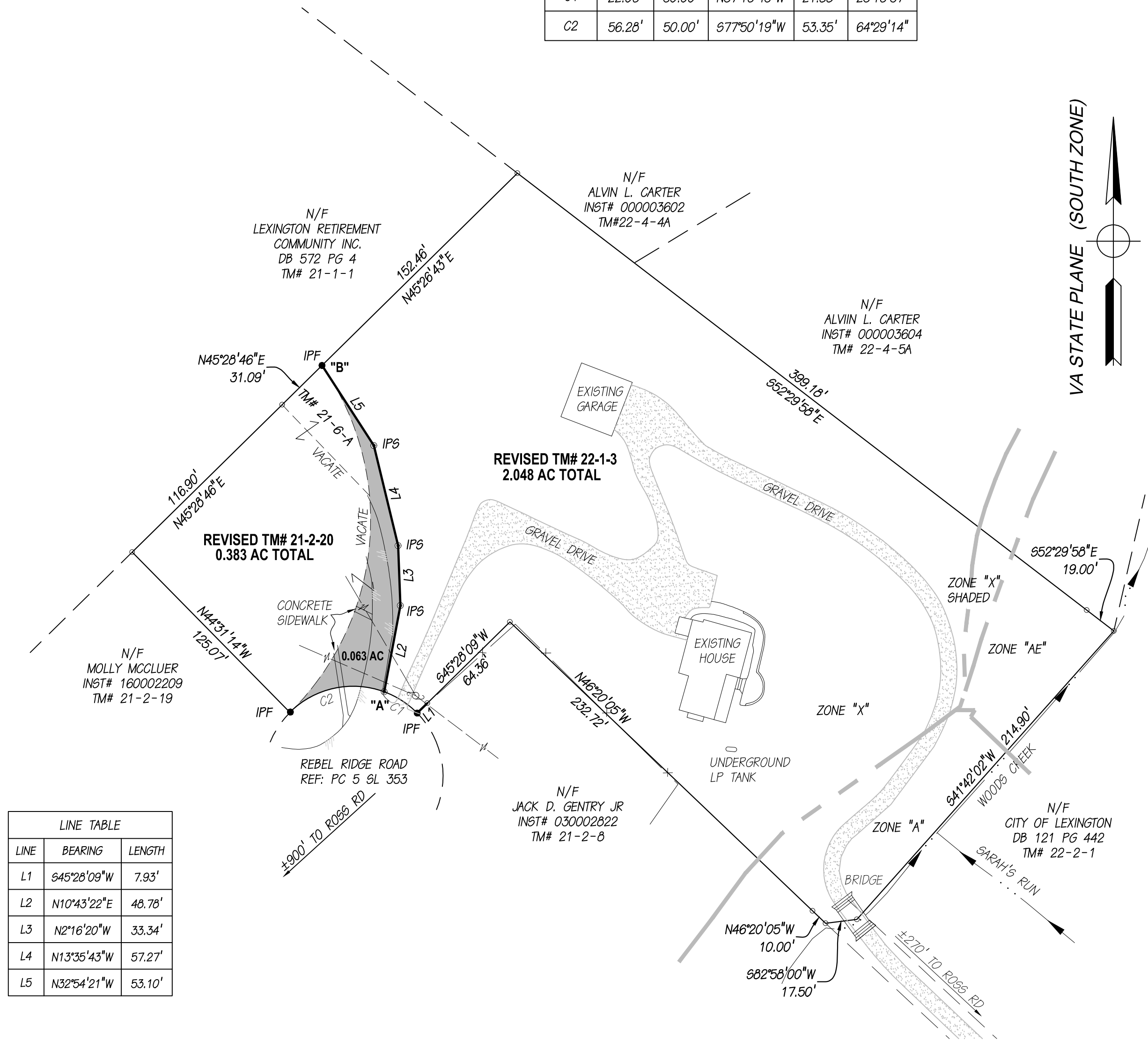
FARRIS P. HOTCHKISS, L5 #2653

**APPROVAL:**

TO THE BEST OF THE AGENT'S KNOWLEDGE AND BELIEF THE PROPOSED BOUNDARY LINE ADJUSTMENT AS SET FORTH IN THE FINAL PLAT COMPLIES WITH ALL PERTINENT ORDINANCES AND OTHER REQUIREMENTS OF THE CITY OF LEXINGTON, VA.

AGENT \_\_\_\_\_ DATE \_\_\_\_\_

CURVE TABLE					
CURVE	LENGTH	RADIUS	BEARING	CHORD	DELTA
C1	22.06'	50.00'	N57°16'45"W	21.88'	25°16'37"
C2	56.28'	50.00'	S77°50'19"W	53.35'	64°29'14"



LINE TABLE		
LINE	BEARING	LENGTH
L1	S45°28'09"W	7.93'
L2	N10°43'22"E	48.78'
L3	N2°16'20"W	33.34'
L4	N13°35'43"W	57.27'
L5	N32°54'21"W	53.10'

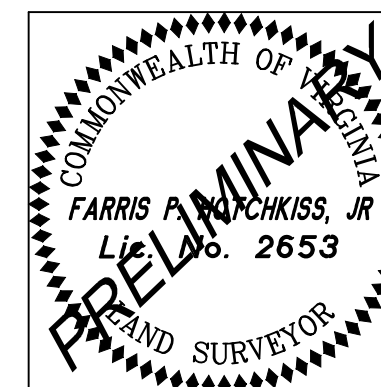
**SOURCE OF TITLE:**

CHRISTIAN & MARGARET SHAPIRO HASKETT  
TM# 21-2-20 & 21-6-A  
INST# 180001449

CHARLES W. & JULIA R. BROWN  
TM# 22-1-3  
INST# 200003907  
PC 5 SL 353

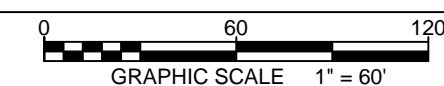
**LEGEND**

- ⊙ IRON PIN SET (IPS)
- IRON PIN FOUND (IPF)
- N/F NOW OR FORMERLY
- ⊕ UTILITY POLE
- OVERHEAD UTILITIES
- X FENCE



PLAT SHOWING  
BOUNDARY LINE ADJUSTMENT FOR  
**CHRISTIAN HASKETT**  
&  
**MARGARET SHAPIRO HASKETT**  
CITY OF LEXINGTON, VIRGINIA

DWN:	GBL
DATE:	05/10/2023
DWG:	V-BLA-21273
JOB:	21273



17 W. NELSON STREET LEXINGTON, VIRGINIA, 24450  
PHONE: 540-464-9001 FAX: 540-464-5009  
E-Mail: pro@perkins-orrisson.com WEBSITE: http://www.perkins-orrisson.net

## Draft amendments for Accessory Dwelling Units

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### Proposed Amendments to the Zoning Chapter (*Chapter 420*)

The Lexington Planning Commission is considering a zoning text amendment to potentially allow accessory dwelling units in accessory structures in accordance with strategy HO 1.2 from the Comprehensive Plan. That strategy directs us to review regulations allowing accessory dwelling units in separate structures in appropriate residential areas. Currently, Accessory Apartments are defined in the Zoning Ordinance as a residential use having the external appearance of a single-family residence in which there is located a second dwelling unit that comprises no more than 25% of the gross floor area of the building nor more than a total of 750 square feet. The current definition does not allow accessory dwelling units to be located in accessory structures that are detached from the main dwelling unit. The purpose of this zoning text amendment is to explore whether accessory dwelling units can be allowed in accessory structures while not creating negative impacts to our neighborhoods.

In this report, staff is proposing a draft outline for the accessory dwelling unit zoning text amendment in an effort to guide the discussion. The following outline is pulled primarily from the *AARP ADU Model State Act and Local Ordinance* and is modified to fit the format of the existing Lexington Zoning Ordinance.

## Article XI. Use and Design Standards.

The following additional regulations apply to specific uses as set forth below. These regulations are intended to serve as the minimum standards for these uses, and are not intended to be in substitution for other provisions of this ordinance that may apply.

### §420-11.1. Residential Uses.

#### 1. Accessory Dwelling Units.

- A. Purpose
- B. Definitions
- C. Authorization of ADUs by zoning district
- D. Number of ADUs allowed per lot in Single-Family Zones
- E. General Standards
  - 1. Minimum Lot Size in Single-Family zones
  - 2. Types of Structures
  - 3. Size of ADUs
  - ~~4. Lot Coverage Limits~~
  - 5. ADU Setbacks
  - ~~6. Floor Area Ratios~~
  - 7. ADU Height Limit
  - 8. Architectural Consistency and Design Review
  - 9. Orientation of Entrance
  - ~~10. ADU Screening, Landscaping and Orientation~~
  - 11. Parking Requirements
  - 12. Short-Term Rentals
  - 13. Separate Sale of ADUs
  - 14. Owner Occupancy (Residency) Standards
  - 15. Other Common Standards Not Recommended for Application to ADUs
- F. Utility Connections and Building Codes
  - 1. Utility Connections
  - 2. Local Building Codes
- G. ADU Application and Review Procedures
  - 1. Application Process
  - 2. Clear and Objective Versus Discretionary Standards
  - 3. Review Procedures
  - 4. Appeals of ADU Decisions
- H. Fees
- I. Legalizing ADUs

## A. Purpose

In Lexington, accessory dwellings are intended to provide additional housing options in the City ~~for the benefit and convenience of families and households with changing economic conditions and/or family structure~~. Accessory dwellings are expected to increase housing opportunities for individuals and households who might have difficulty finding housing in Lexington. In addition, these provisions are provided to formally recognize previously established apartments and provide for improved safety and physical appearance.

## B. Definitions

### ACCESSORY DWELLING UNIT - ATTACHED

A complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than **2 persons** for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained within the principal structure of a single-family dwelling, such accessory dwelling unit constitutes an “attached accessory dwelling unit,” for which a separate entrance and street address are required.

### ACCESSORY DWELLING UNIT – DETACHED

A complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than **2 persons** for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained in a separate, fully detached structure from the principal structure of a single-family dwelling, such accessory dwelling unit constitutes a “detached accessory dwelling unit,” for which a separate street address is required.

C. Authorization of ADUs by zoning district

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential- Light Commercial	C-1, Central Business District	C-2, General Commercial District
<i>B = By-right uses, C = Conditional uses</i>								
<b>Use Types</b>								
<b>Residential</b>								
Accessory apartment Dwelling Unit - Attached			B	B	B	B	B	
<a href="#">Accessory Dwelling Unit - Detached</a>			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		
Dish Antennas (not meeting use and design Standards in §420-11.1.1)			C	C	C	C		
Family Health Care Structure, temporary			B	B	B	B		
Fraternity/Sorority House, University Administered			C		C			
Group home			B	B	B	B		
Guest room			B	B	B	B		
Live-work dwelling					B	B	B	B
Multi-family dwelling					B	C	B <sup>1</sup> , C <sup>2</sup>	
Single-family dwelling, attached			B	B	B	B		
Single-family dwelling, detached			B	B	B	B		
Townhouse					B	B	B	C
Two-family dwelling			B		B	B		

## D. Number of ADUs allowed per lot

No more than one per lot, provided the parcel meets the minimum lot size and the structure meets the minimum setback requirements for the district.

## E. General Standards

### 1. Minimum Lot Size

- a) Same minimum lot size for the accessory dwelling unit as the minimum lot size for the primary dwelling.
- b) Accessory dwelling units may be created within or attached to an existing primary dwelling located on a lot that is smaller than the minimum lot size provided the primary dwelling is a legal nonconforming use.
- c) The underlying zoning district development standards for lot coverage, height, setbacks and floor area ratio that apply to the primary dwelling shall also include the accessory apartment in the calculation of these standards.

### 2. Types of Structures

A modular dwelling affixed to a permanent foundation may be used as an accessory dwelling unit in any zone in which an accessory dwelling unit are permitted.

### 3. Size of ADUs

- a) *Accessory dwelling unit – attached.* The gross floor area of an attached accessory dwelling unit may not exceed forty (40) percent of the gross floor area of the principal structure in which it is located nor more than the total of 750 square feet.
- b) *Accessory dwelling unit – detached.* The gross floor area of a detached accessory dwelling unit may not exceed forty (40) percent of the gross floor area of the primary dwelling on the property nor more than the total of 800 square feet. Additionally, detached accessory buildings and structures cumulatively shall not occupy more than ~~2~~ (2) percent of a rear yard.

### ~~4. Lot Coverage Limits~~

### 5. ADU Setbacks

Any detached accessory building approved after July 1, 2023, containing an accessory dwelling shall comply with setbacks as follows:

- (1) For lots in the R-1 zoning district, the nearest wall of the accessory building shall not be located closer than fifteen (or ten) feet to a side lot line or fifteen feet to a rear lot line;
- (2) For lots in the R-2 zoning district, the nearest wall of the accessory building shall not be located closer than twenty (or fifteen) feet to a side lot line or twenty feet to a rear lot line; and

- (3) When a garage situated within a required rear yard is entered from an alley, the garage shall not be nearer than ten (10) feet to the property line adjacent to the alley or side street.

## ~~6. Floor Area Ratios~~

### 7. ADU Height Limit

Detached accessory buildings containing accessory dwellings shall exceed neither 25 feet nor 1½ stories in height.

### 8. Architectural Consistency and Design Review

A detached accessory dwelling unit located in the Residential Historic District must be reviewed by the Architectural Review Board for consistency with the Historic District Design Guidelines.

### 9. Orientation of Entrance

No attached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street. Accessory dwelling units facing an alley as determined by the Zoning Administrator may have external stairs on the side of the lot facing the alley. No detached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street unless the accessory building was built prior to the date of the adoption of this ordinance.

## ~~10. ADU Screening, Landscaping and Orientation~~

### 11. Parking Requirements

#### a) **Sample #1**

1. If no parking spaces exist prior to an application for approval of an ADU, 1 space shall be created, provided, however, that if an applicant can demonstrate to the Zoning Administrator that adequate on-street parking exists on the block on which the main dwelling is located, such new space may not be required.
2. Where either 1 or 2 spaces exist prior to issuance of the accessory dwelling permit, all such space(s) shall be maintained.
3. Where more than 2 spaces exist prior to issuance of the accessory dwelling permit, at least two spaces shall be maintained.

#### b) **Sample #2**

1 per accessory dwelling unit in addition to the number of parking spaces associated with the primary dwelling existing as of the date of approval.

### 12. Short Term Rentals

One short term rental is allowed per parcel.

### 13. Separate Sale of ADUs

The separate sale of an accessory dwelling unit is prohibited.

#### 14. Owner Occupancy (Residency Standards)

The owner of the principal building or lot shall be the occupant of the principal dwelling or of the accessory dwelling unit.

#### 15. Other Common Standards Not Recommended for Application to ADUs

Accessory dwellings shall not be included in calculations of density. Discussion in dropbox audio for April 27, 2023 at 39:46.

### F. Utility Connections and Building Codes

#### 1. Utility Connections

An accessory building in which the accessory apartment is located shall not be required to be separately metered for utilities from the principal single-family home.

#### 2. Local Building Codes

Must comply with all applicable building code regulations.

### G. Nonconformities

#### 1. Accessory dwellings shall be allowed within a nonconforming, detached accessory building, in accordance with all requirements of Article 16 Nonconforming Uses and shall be subject to the following limitations:

(a) Detached nonconforming accessory buildings existing prior to May 18, 2019, may be altered to make interior alterations, whether structural or non-structural, in accordance with all requirements of Article 16, to create an accessory dwelling provided the detached accessory dwelling unit can meet the following additional requirements:

- 1) Maximum square footage of \_\_\_\_ (only so much can be used for the ADU)
- 2) Door/access not directly to/from an alley
- 3) On interior lots ...
- 4) On corner lots ...
- 5) Some allowance for ADU reduced rear and/or side yard setback when adjacent to an alley
- 6) Bigger setbacks to road than to alley (see Arlington County B.3.)
- 7) Maximum height (similar to what is in maximum height *Detached accessory buildings containing accessory dwellings shall exceed neither 25 feet nor 1½ stories in height*)
- 8) Bay window additional allowance to encroach into setback (or just reference Article 4 that allows this additional encroachment for bay windows?)

(b) Any detached accessory building approved after May 18, 2019, containing an accessory dwelling shall comply with all requirements of Article 3, and with setbacks as follows:



- (1) On interior lots, the nearest wall of the accessory building shall not be located closer than five feet to a side or rear lot line;
- (2) On corner lots, the nearest wall of the accessory building shall not be located closer than five feet to any side lot line, and the nearest edge of the eave of the accessory building shall not be located closer than 10 feet to any rear lot line; and
- (3) The nearest wall of the accessory building shall not be located closer than 25 feet from any street or officially designated street right-of-way line. (c) Detached accessory buildings approved after May 18, 2019, containing accessory dwellings shall exceed neither 25 feet nor 1½ stories in height.

#### H. Additional items to consider

1. For purposes of this provision, square feet shall be calculated as the sum of the total horizontal areas of all floors of the building, measured from the interior faces of exterior walls. Rooms with structural headroom of less than 6' 6" shall not be counted, nor shall garage space, provided the area of the garage does not exceed the counted floor area. Covered porches, balconies, etc. shall not be counted unless they are enclosed, but shall not exceed 50 percent (50%) of the area of the counted floor area. (staff likes this language to specify what is included in allowed s.f.)
2. Reiterate the accessory cannot be constructed without the primary dwelling existing on the parcel.

#### I. ADU Application and Review Procedures

1. Application Process (*same application process as other conditional use permits*)
2. Clear and Objective Versus Discretionary Standards
3. Review Procedures (*same review procedures as other conditional use permits*)
4. Appeals of ADU Decisions (*same appeals process as other appeals of decisions of the Zoning Administrators to the Board of Zoning Appeals*)

#### J. Fees

(*same fees as other conditional use permits*)

#### K. Legalizing ADUs

1. Illegal accessory apartments in detached structures are required to seek approval for the detached accessory apartment through the conditional use permit and the accessory apartment must meet all requirements thereof.

## Draft Accessory Dwelling Unit ordinance language (6.8.2023)

### §420-11.1. Residential Uses.

#### 1. Accessory Dwelling Unit (ADU).

A. Purpose. In Lexington, accessory dwellings are intended to provide additional housing options ~~in the City for the benefit and convenience of families and households with changing economic conditions and/or family structure.~~ Accessory dwellings are expected to increase housing opportunities for individuals and households who might have difficulty finding housing in Lexington. In addition, these provisions are provided to formally recognize previously established apartments and provide for improved safety and physical appearance

B. Definitions. The following words and phrases, as used in this subsection, shall have the following meanings:

“Accessory Dwelling Unit - Attached” means a complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than **? persons** for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained within the principal structure of a single-family dwelling, such accessory dwelling unit constitutes an “attached accessory dwelling unit,” for which a separate entrance and street address are required.

“Accessory Dwelling Unit - Detached” means a complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than **? persons** for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained in a separate, fully detached structure from the principal structure of a single-family dwelling, such accessory dwelling unit constitutes a “detached accessory dwelling unit,” for which a separate street address is required.

C. General standards. Accessory Dwelling Units shall be subject to the following minimum standards:

- (1) No more than one ADU shall be allowed per parcel, **provided the parcel meets the minimum lot size and the structure meets the minimum setback requirements for the district.** *(with exceptions for C.(5), E.(9), and any others?)*
- (2) Accessory dwelling units must comply with all applicable building code regulations.
- (3) Same minimum lot size for the accessory dwelling unit as the minimum lot size for the primary dwelling.
- (4) The underlying zoning district **development standards** for lot coverage, height, setbacks and ~~floor area ratio~~ that apply to the primary dwelling shall also include the accessory dwelling unit in the calculation of these standards.

- (5) Accessory dwelling units may be created within or attached to an existing primary dwelling located on a lot that is smaller than the minimum lot size provided the primary dwelling is a legal nonconforming use.
- (6) The owner of the principal building or lot shall be the occupant of the principal dwelling or of the accessory dwelling unit.
- (7) The separate sale of an accessory dwelling unit is prohibited.
- (8) Only one short term rental registration shall be allowed per parcel.
- (9) Accessory dwelling units shall not be included in calculations of density.
- (10) Allowable square feet for accessory dwelling units shall be calculated as the sum of the total horizontal areas of all floors of the building, measured from the interior faces of exterior walls. Rooms with structural headroom of less than 6' 6" shall not be counted, nor shall garage space, provided the area of the garage does not exceed the counted floor area. Covered porches, balconies, etc. shall not be counted unless they are enclosed, but shall not exceed 50 percent (50%) of the area of the counted floor area. (decks?)
- (11) Any accessory dwelling units shall comply with the following parking requirements:
  - i. If no parking spaces exist prior to an application for approval of an ADU, 1 space shall be created, provided, however, that if an applicant can demonstrate to the Zoning Administrator that adequate on-street parking exists on the block on which the main dwelling is located, such new space may not be required.
  - ii. Where either 1 or 2 spaces exist prior to the issuance of the accessory dwelling permit, all such space(s) shall be maintained.
  - iii. Where more than 2 spaces exist prior to issuance of the accessory dwelling permit, at least two spaces shall be maintained.

-OR-

- (11) One parking space per accessory dwelling unit shall be required in addition to the number of parking spaces associated with the primary dwelling existing as of the date of approval.

D. Accessory Dwelling Unit – Attached standards. Attached Accessory Dwelling Units shall be subject to the following additional standards:

- (1) The gross floor area of an attached accessory dwelling unit may not exceed forty (40) percent of the gross floor area of the principal structure in which it is located nor more than the total of 750 square feet.
- (2) No attached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street. Accessory dwelling units facing an alley as determined by the Zoning Administrator may have external stairs on the side of the lot facing the alley.

- E. Accessory Dwelling Unit – Detached standards. Detached Accessory Dwelling Units shall be subject to the following additional standards:
- (1) The gross floor area of a detached accessory dwelling unit may not exceed forty (40) percent of the gross floor area of the primary dwelling on the property nor more than the total of 800 square feet. Additionally, detached accessory buildings and structures cumulatively shall not occupy more than ?? percent of a rear yard.
  - (2) Detached accessory buildings containing accessory dwellings shall exceed neither 25 feet nor 1 ½ stories in height.
  - (3) Any detached accessory building approved after \_\_\_\_\_, containing an accessory dwelling shall comply with setbacks as follows:
    - i. For lots in the R-1 zoning district, the nearest wall of the accessory building shall not be located closer than fifteen (or ten) feet to a side lot line or fifteen feet to a rear lot line;
    - ii. For lots in the R-2 zoning district, the nearest wall of the accessory building shall not be located closer than twenty (or fifteen) feet to a side lot line or twenty feet to a rear lot line; and
    - iii. When a garage situated within a required rear yard is entered from an alley, the garage shall not be nearer than ten (10) feet to the property line adjacent to the alley or side street.
  - (4) No detached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street unless the accessory building was built prior to the date of the adoption of this ordinance.
  - (5) A detached accessory dwelling unit located in the Residential Historic District must be reviewed by the Architectural Review Board for consistency with the Historic District Design Guidelines.
  - (6) An accessory building in which the accessory apartment is located shall not be required to be separately metered for utilities from the principal single family home.
  - (7) A modular dwelling affixed to a permanent foundation may be used as an accessory dwelling unit in any zone in which an accessory dwelling unit is permitted.
  - (8) An accessory building in which the accessory apartment is located shall not be required to be separately metered for utilities from the principal single-family home.
  - (9) Detached nonconforming accessory buildings existing prior to May 18, 2019, may be altered to make interior alterations, whether structural or non-structural, in accordance with all requirements of Article 16, to create an accessory dwelling provided the detached accessory dwelling unit can meet the following additional requirements:
    - 1) Maximum square footage of \_\_\_\_\_ (only so much can be used for the ADU)
    - 2) Door/access not directly to/from an alley
    - 3) On interior lots ...
    - 4) On corner lots ...

- 5) Some allowance for ADU reduced rear and/or side yard setback when adjacent to an alley
- 6) Bigger setbacks to road than to alley (see Arlington County B.3.)
- 7) Maximum height (similar to what is in maximum height *Detached accessory buildings containing accessory dwellings shall exceed neither 25 feet nor 1½ stories in height*)
- 8) Bay window additional allowance to encroach into setback (or just reference Article 4 that allows this additional encroachment for bay windows?)

F. Administration.

- (1) Illegal accessory apartments in detached structures are required to seek approval for the detached accessory apartment though the conditional use permit **and the accessory apartment must meet all requirements thereof.**
- (2) Reiterate the accessory cannot be constructed without the primary dwelling existing on the parcel.

## §420-20.1. Definitions

### **ACCESSORY APARTMENT**

~~A residential use having the external appearance of a single-family residence in which there is located a second dwelling unit that comprises no more than 25% of the gross floor area of the building nor more than a total of 750 square feet.~~

### **ACCESSORY DWELLING UNIT - ATTACHED**

A complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than **? persons** for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained within the principal structure of a single-family dwelling, such accessory dwelling unit constitutes an “attached accessory dwelling unit,” for which a separate entrance and street address are required.

### **ACCESSORY DWELLING UNIT - DETACHED**

A complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than **? persons** for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained in a separate, fully detached structure from the principal structure of a single-family dwelling, such accessory dwelling unit constitutes a “detached accessory dwelling unit,” for which a separate street address is required.

### Article III. Use Matrix.

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential-Light Commercial	C-1, Central Business District	C-2, General Commercial District
<i>B = By-right uses, C = Conditional uses</i>								
Use Types								
Residential								
Accessory apartment Dwelling Unit - Attached			B	B	B	B	B	
<a href="#">Accessory Dwelling Unit - Detached</a>			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		
Dish Antennas (not meeting use and design Standards in §420-11.1.1)			C	C	C	C		
Family Health Care Structure, temporary			B	B	B	B		
Fraternity/Sorority House, University Administered			C		C			
Group home			B	B	B	B		
Guest room			B	B	B	B		
Live-work dwelling					B	B	B	B
Multi-family dwelling					B	C	B <sup>1</sup> , C <sup>2</sup>	
Single-family dwelling, attached			B	B	B	B		
Single-family dwelling, detached			B	B	B	B		
Townhouse					B	B	B	C
Two-family dwelling			B		B	B		