



**AGENDA
FARRAGUT MUNICIPAL PLANNING COMMISSION**

**March 19, 2020
7:00 p.m. Farragut Town Hall**

For questions please e-mail Mark Shipley at mshipley@townoffarragut.org or Bart Hose at bhose@townoffarragut.org

- 1. Approval of agenda**
- 2. Approval of minutes – February 20, 2020**
- 3. Discussion and public hearing on a resubdivision plat for the Rebecca Goin property, 11625 Turkey Creek Road, 10.24 Acres, 3 Lots, Zoned R-1 (Batson, Himes, Norvell, and Poe, Applicant)**
- 4. Discussion and public hearing on a site plan amendment related to open space and the appearance of proposed retaining walls for Phase II of the PCD development at 115 S. Watt Road, 18.65 Acres, Zoned PCD (Watt Road Investments, LLC, Applicant)**
- 5. Discussion and public hearing on the proposed update of the Farragut Sign Ordinance (Town of Farragut, Applicant)**
- 6. Discussion and public hearing on a request to amend the text of the Comprehensive Land Use Plan Update 2012 as it relates to High Density Residential, Medium Density Residential, Low Density Residential, and Very Low-Density Residential land use descriptions (Town of Farragut, Applicant)**
- 7. Discussion on the development of zoning provisions governing pain management clinics and methadone treatment and similar drug/alcohol treatment clinics or facilities (Town of Farragut, Applicant)**
- 8. Approval of utilities**
- 9. Citizen Forum**

Planning Commission Meeting Public Comment Protocol

The Planning Commission welcomes and invites citizens to participate in public meetings.

At the beginning of each meeting, there will be time reserved for public comment under the Citizen Forum agenda item. If you are interested in speaking, please fill out a blue comment card and turn it in to the Town Planner or staff member. This time is set aside specifically for comments on items that are not on the Planning Commission regular agenda for the meeting. Each speaker will be given five (5) minutes to speak on his/her topic.

During the regular agenda portion of the meeting there may be an allowance for public comment for each agenda item. The Chairman may recognize individuals for public comment based on the following guidelines:

1. The Chairman shall maintain and control the meeting to provide a professional and objective environment conducive to presentation and discussion of the agenda items;
2. Anyone interested in speaking should fill out a blue comment card stating which agenda item they would like to comment on and turn in to the Town Planner or a staff member;
3. Speakers shall come to the podium and identify themselves by name and address;
4. Public comment shall be limited to five (5) minutes per individual, time may be extended at the discretion of the Chairman; time is not transferable to other speakers;
5. Speakers should strive to avoid redundancy;
6. Comments shall address issues, not individuals or personalities;
7. Comments may support or oppose particular issues or measures, but the motives of those with differing views shall not be questioned or attacked;
8. Personal attacks and malicious comments shall not be tolerated;
9. An applicant, and/or their representative(s), for an item on the regular agenda shall be afforded the time necessary to present their request and respond to questions. The five (5) minute limitation shall not apply. However, the Chairman may ask an applicant to stay on point in order to facilitate the efficiency of the meeting.



**MINUTES
FARRAGUT MUNICIPAL PLANNING COMMISSION**

February 20, 2020

MEMBERS PRESENT

Rita Holladay, Chairman
Ed St. Clair, Vice-Chairman
Ron Williams, Mayor
Louise Povlin
Scott Russ
Betty Dick
Noah Myers
Rose Ann Kile
Melanie Cionfolo, Youth Representative

MEMBERS ABSENT

Jon Greene

Staff Representatives: Mark Shipley, Community Development Director
Bart Hose, Assistant Community Development Director

Chairman Holladay called the meeting to order at 7 p.m.

1. Citizen Forum

Due to the need to complete the two training sessions on the agenda, Mayor Williams noted that under the approval of agenda item he will recommend that citizen forum be moved to the end of the agenda.

2. Approval of agenda

A motion was made by Mayor Williams to approve the agenda with citizen forum being moved to the end of the meeting due to the need to complete the two training sessions on the agenda in a timely manner. Motion was seconded by Commissioner Myers and motion passed unanimously.

3. Approval of minutes – January 16, 2020

Staff recommended approval.

A motion was made by Commissioner St. Clair to follow staffs' recommendation. Motion was seconded by Mayor Williams and motion passed unanimously.

4. Discussion on a draft of the update to the Farragut Sign Ordinance

Staff conducted a training session workshop on the components of the draft update of the Farragut Sign Ordinance.

5. Discussion and overview of the Comprehensive Land Use Plan Update 2012 and land use descriptions for select residential land uses

Staff conducted a training session on the Comprehensive Land Use Plan Update and reviewed some changes that are recommended to the text.

6. Approval of utilities

None

7. Citizen Forum

Jerry Guthrie, Laura Squires, Kate Juarez, and Dana Shoffner spoke about their concerns related to 5G implementation.

The meeting was adjourned at 10:25 p.m.

Rose Ann Kile, Secretary

REPORT TO THE FARRAGUT MUNICIPAL PLANNING COMMISSION

PREPARED BY: Bart Hose, Assistant Community Development Director

SUBJECT: Discussion and public hearing on a resubdivision plat for the Rebecca Goin property, 11625 Turkey Creek Road, 10.24 Acres, Zoned R-1 (Batson, Himes, Norvell, and Poe, Applicant)

INTRODUCTION AND BACKGROUND: This item involves a minor three lot subdivision of 10.24 acres located on Turkey Creek Road and Spring Branch Lane. The property in question is currently zoned R-1 and is divided into two lots. As noted, the proposed minor subdivision will create three new lots. Two of the proposed lots will have frontage on Turkey Creek Road. The third, larger 6.84-acre, lot will front on and be accessed from Spring Branch Lane.

DISCUSSION: There are two issues related to this proposed subdivision. The first involves access to the smaller, southern most lot on Turkey Creek Road. This road is classified as a Major Collector and the Town's access controls require a minimum separation distance of 200 feet between driveways and between driveways and intersecting streets. Because of this, access to the lot will need to be restricted and aligned with Lake Haven Road. The second issue involves the Town's 10 percent open-space dedication requirement. The applicants will either need to provide and dedicate the required open-space or request a variance. The staff would recommend that the applicants utilize the drainage area located along the northeastern most property line to meet the open-space requirement.

RECOMMENDATION: Included in your packet is a copy of the latest final plat. Staff will make a recommendation at the meeting based on whether staffs' comments have been satisfactorily addressed and the field items are generally complete.

CERTIFICATE OF OWNERSHIP AND DESIGNATION

I HEREBY CERTIFY THAT I AM (WE ARE) THE OWNER(S) OF THE PROPERTY SHOWN AND DESCRIBED HEREIN AS EVIDENCED BY INSTR. # 20150504005960, COUNTY REGISTERED OFFICE, AND THAT I (WE) HOLD THE PLAN OF SUBDIVISION WITH MY (OUR) FREE CONSENT, ESTABLISH THE MINIMUM BUILDING RESTRICTIONS LINES AND PROVIDE ALL UTILITIES, ALLOYS, WALLS, FENCES, AND OTHER OPEN SPACE TO PUBLIC OR PRIVATE USE AS NOTED.

DATE _____

OWNER _____

CERTIFICATE FOR STREET APPROVAL

I CERTIFY THAT STREETS, SIDEWALKS, AND OTHER REQUIRED IMPROVEMENTS HAVE BEEN INSTALLED IN AN ACCEPTABLE MANNER AND ACCORDING TO TOWN SPECIFICATIONS, OR THAT A SECURITY BOND IN THE AMOUNT OF \$ _____ HAS BEEN POSTED WITH THE PLANNING COMMISSION TO ASSURE COMPLETION OF ALL REQUIRED IMPROVEMENTS IN CASE OF DEFAULT. STREETS ARE PUBLIC STREETS MAINTAINED AT PUBLIC EXPENSE.

DATE _____

TOWN ENGINEER
LICENSE NO. _____

RELEASE OF EASEMENTS CERTIFICATION

EXCEPT AS NOTED OR SHOWN ON THIS PLAN, THE FOLLOWING PARTIES HEREBY CONSENT TO THE RELEASE OF ALL RIGHTS THAT MAY HAVE EXISTED FOR THEIR USE AND BENEFIT IN THE UTILITY, DRAINAGE, AND CONSTRUCTION EASEMENTS ALONG THE ORIGINAL LOT LINES OR FROM EASEMENTS EXISTING HEREON. THE ABOVE PROCEEDINGS HERETOFORE PRIOR EASEMENTS OR PRIOR UTILITY PLACEMENTS ARE NOT RELEASED UNLESS SPECIFICALLY NOTED HEREON. EXISTING EASEMENTS OR PLACEMENTS SHOWN HEREON WILL NOT BE ADVERSELY AFFECTED BY THE DEVELOPMENT AS HERIN PROPOSED.

SIGNATURE (SEWER) _____

DATE _____

SIGNATURE (WATER) _____

DATE _____

SIGNATURE (ELECTRICITY) _____

DATE _____

SIGNATURE (GAS) _____

DATE _____

SIGNATURE (TELEPHONE) _____

DATE _____

SIGNATURE (CABLE) _____

DATE _____

SIGNATURE (TOWN OF FARRAGUT) _____

DATE _____

CERTIFICATE OF APPROVAL OF STREET NAMES

THIS IS TO CERTIFY THAT THE SUBDIVISION SHOWN HEREIN HAS BEEN REVIEWED FOR COMPLIANCE WITH THE KNOX COUNTY UNIFORM STREET NAMING & ADDRESSING SYSTEM ORDINANCE, AND THE ROAD NAMES ARE HEREBY APPROVED FOR RECORDING.

KNOX COUNTY ADDRESSING DIVISION _____

DATE _____

CERTIFICATE OF ELECTRIC, GAS, AND TELEPHONE AVAILABILITY

THIS IS TO CERTIFY THAT EVERY LOT WITHIN THIS SUBDIVISION HAS AVAILABLE TO IT A SOURCE FOR THE SERVICE EQUIPPED BY SIGNATURED BELOW WHICH SERVICE SOURCE IS ACCORDING TO ACCOMMODATE THE REASONABLE NEEDS OF SUCH LOT AS TO SUCH SERVICE WITHIN SUCH SUBDIVISION.

DATE _____

GAS - NAME, TITLE, AND AGENCY OF AUTHORIZED APPROVING AGENT _____

DATE _____

ELECTRIC - NAME, TITLE, AND AGENCY OF AUTHORIZED APPROVING AGENT _____

DATE _____

TELEPHONE - NAME, TITLE, AND AGENCY OF AUTHORIZED APPROVING AGENT _____

CERTIFICATE OF APPROVAL OF WATER SYSTEM

I HEREBY CERTIFY THAT IT HAS BEEN CERTIFIED TO US THAT THE WATER SYSTEMS OUTLINED OR INDICATED ON THE FINAL SUBDIVISION PLAN ENTITLED "SUBDIVISION OF 6.84 ACRES & 2.14 ACRES & 1.28 ACRES" HAVE BEEN INSTALLED IN ACCORDANCE WITH CURRENT LOCAL AND STATE GOVERNMENT REQUIREMENTS.

DATE _____

NAME, TITLE, AND AGENCY OF AUTHORIZED APPROVING AGENT _____

CERTIFICATE OF APPROVAL OF SEWER SYSTEM

I HEREBY CERTIFY THAT IT HAS BEEN CERTIFIED TO US THAT THE SEWER SYSTEMS OUTLINED OR INDICATED ON THE FINAL SUBDIVISION PLAN ENTITLED "SUBDIVISION OF 6.84 ACRES & 2.14 ACRES & 1.28 ACRES" HAVE BEEN INSTALLED IN ACCORDANCE WITH CURRENT LOCAL AND STATE GOVERNMENT REQUIREMENTS.

DATE _____

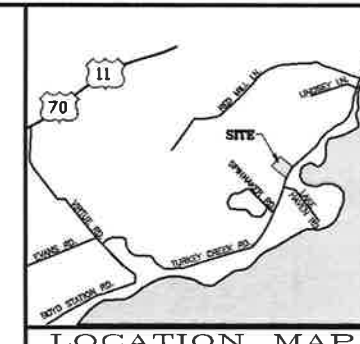
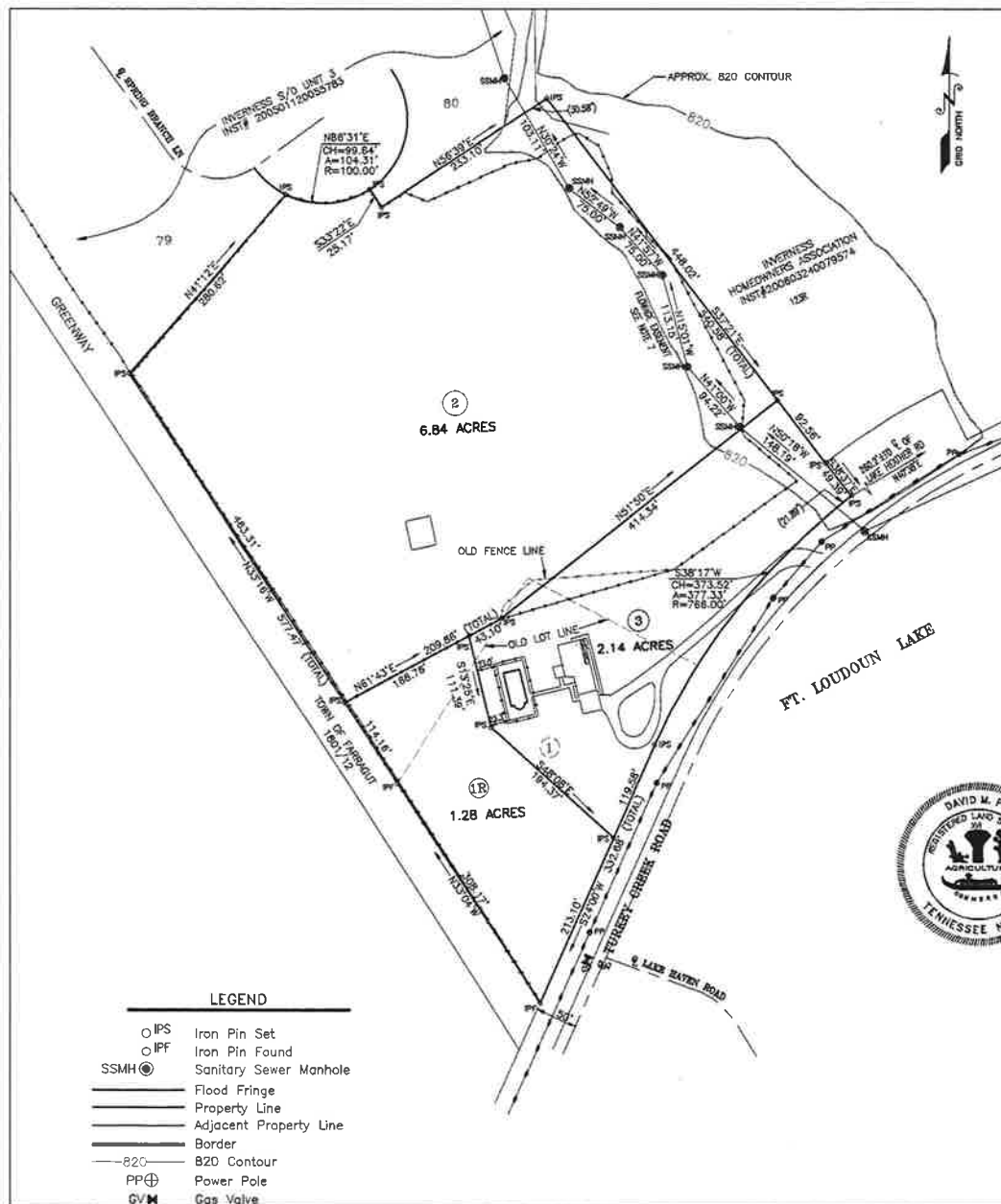
NAME, TITLE, AND AGENCY OF AUTHORIZED APPROVING AGENT _____

CERTIFICATE OF APPROVAL FOR RECORDING

I HEREBY CERTIFY THAT THE SUBDIVISION PLAN SHOWN HEREIN HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS FOR FARRAGUT, TENNESSEE, WITH THE EXCEPTION OF SUCH VARIANCES, IF ANY, AS ARE NOTED IN THE MINUTES OF THE PLANNING COMMISSION AND THAT IT HAS BEEN APPROVED FOR RECORDING IN THE OFFICE OF THE COUNTY REGISTER OF DEEDS.

DATE _____

SECRETARY, PLANNING COMMISSION _____



- NOTES:
1. IRON PINS FOUND (IPF) SHOWN ON MAP, ALL OTHER CORNERS SET BY B-N-M-P UNLESS OTHERWISE NOTED.
 2. THERE SHALL BE A (10) FEET UTILITY, DRAINAGE, AND CONSTRUCTION EASEMENT WIDTH INSIDE ALL EXTERIOR LOT LINES, ADJOINING STREETS, AND PRIVATE RIGHTS-OF-WAYS. THERE SHALL BE A (5) FEET UTILITY, DRAINAGE, AND CONSTRUCTION EASEMENT IN WIDTH PROVIDED ALONG BOTH SIDES OF ALL INTERIOR LOT LINES. (NO EASEMENTS ARE REQUIRED WHERE ZERO LOT LINE SETBACKS HAVE BEEN APPROVED).
 3. SANITARY SEWER EASEMENT OF 15', 7.5' EACH SIDE OF SEWER AS INSTALLED (WHERE APPLICABLE).
 4. THIS PROPERTY IS ZONED R-1.
 5. THIS PROPERTY CONTAINS 10.24 ACRES OF TWO TRACTS. THE PURPOSE OF THIS PLAN IS TO SUBDIVIDE THE PROPERTY INTO 3 LOTS.
 6. BUILDING SETBACK LINES WILL BE AS FOLLOWS:
FRONT...30'
SIDES...15' (TOTAL BOTH SIDES)
REAR...25'
 7. TVA OWNS FLOODWAY EASEMENT RIGHTS BELOW THE 820 CONTOUR. NO BUILDING OR FILLING IS ALLOWED IN THIS AREA WITHOUT PRIOR TVA APPROVAL.



CERTIFICATE OF SURVEY ACCURACY

I HEREBY CERTIFY THAT THE PLAN SHOWN AND DESCRIBED HEREON IS A TRUE AND CORRECT SURVEY TO THE ACCURACY REQUIRED BY THE FARRAGUT MUNICIPAL PLANNING COMMISSION AND THAT THE MONUMENTS HAVE BEEN PLACED AS SHOWN HEREON, TO THE SPECIFICATION OF THE SURVEYS REGULATIONS. THIS IS A CERTIFICATE OF LAND SURVEY AND THE RATE OF PRECISION OF THE UNADJUSTED SURVEY IS EQUAL TO OR GREATER THAN 1:10,000.

DATE _____

REGISTERED SURVEYOR _____

NO. _____

FINAL PLAN
FOR
REBECCA K. GOIN PROPERTY
TAX MAP 153 PARCELS 21.01 & 21.03
TOWN OF FARRAGUT
DISTRICT 6, KNOX COUNTY, TN
SCALE: 1" = 100' DATE: MARCH 2, 2020
100 50 0 100 200

BATSON, HIMES, NORVELL & POE
REGISTERED ENGINEERS & LAND SURVEYORS
4334 PAPERMILL DRIVE
KNOXVILLE, TENNESSEE 37909
PHONE (865) 588-6472
FAX (865) 588-6473
email@bhn-p.com

DEVELOPER/OWNER:
REBECCA K. GOIN
11625 TURKEY CREEK RD.
KNOXVILLE, TN 37922

PLAT REFERENCE: BOOK 86L, PAGE 69
DEED REFERENCE: INSTR. #201505040059607

23455-FP-GOIN

REPORT TO THE FARRAGUT MUNICIPAL PLANNING COMMISSION

PREPARED BY: Mark Shipley, Community Development Director

SUBJECT: Discussion and public hearing on a site plan amendment related to open space and the appearance of proposed retaining walls for Phase II of the PCD development at 115 S. Watt Road, 18.65 Acres, Zoned PCD (Watt Road Investments, LLC, Applicant)

INTRODUCTION AND BACKGROUND: This item involves the review of a site plan amendment related to required open space (consistent with the PCD District) and the appearance of proposed retaining walls for Phase II of the PCD development at 115 S. Watt Road. As you know, the Planning Commission last reviewed the site plan for this development in July of 2018. At that time, the Planning Commission granted plan approval for the proposed apartments subject to a number (32) of conditions or corrections. Since that time, the applicants have been working through revisions related to the Planning Commission's approval and/or issues related to their financing source. During this ongoing process, the staff identified the open space and retaining wall issues as items that needed to be referred to the Planning Commission for additional review.

DISCUSSION: As you know, the Planned Commercial Development (PCD) district includes several objectives (see section included). This includes the development of "functional common open spaces." These spaces are supposed to be located "to provide focal points to be actively used." The proposed development plan has gone through numerous revisions since the original concept plan was approved. Staff has previously noted the negative impact of these revisions on the open space elements envisioned for this project. The current plan further impacts the open spaces around and between several of the buildings. Given that the Planning Commission had previously discussed these spaces, the staff determined that the changes should be further reviewed.

The current version of the plan also includes higher retaining walls in some areas, along with additional details regarding how the walls will be constructed and actually look. To lessen disturbance to tree cover in adjacent transition areas, the applicant is proposing a soil nail wall where long metal rods are drilled in the bank at an angle and the wall face is anchored to the rods. The issue here is the potentially industrial look of this type of wall construction. Again, given the intent and objectives of the PCD district, the staff determined that the changes to the wall and additional design details should be reviewed by the Planning Commission.

When this was discussed at the staff/developer meeting on March 3, a recommendation was made to break up the solid concrete veneer that the applicant is proposing to cover the soil nail wall. The staff has included the applicant's plan to eventually cover this wall with vines. Staff would not support this option and would recommend that structural design enhancements be incorporated to the wall to break it up visually and enhance its appearance. In other locations, soil nail walls have been covered with masonry block for appearance purposes. Since the PCD creates an expectation of higher standards than would be permitted under a conventional development, staff would recommend that whatever veneer is proposed, it is the most aesthetically pleasing possible.

F. *Parking.* As regulated in Chapter 4.
(Ord. No. 86-16, 4-1986; Ord. of 2-2006; Ord. No. 10-02, § 2, 2-25-2010)

Sec. XXV. Office district, five stories (O-1-5).

A. *General description.* This district provides space for offices which provide regional services. The intent of this district is to permit lands adjacent to the interstate and/or Parkside Drive to have taller buildings.

B. *Permitted principal and accessory uses and structure.* This district provides identical use requirements as the Office District (O-1).

C. *Area regulations.*

1. *Front yard, side yard, rear yard, buffer strips, and land area.* This district provides identical area requirements as the Office District (O-1), except that any building taller than 35 feet which abuts a residential district or B-1 Buffer Zone shall have a minimum building setback of 70 feet. In all such cases, this 70-foot setback is from the O-1-5 zoning line, regardless of property ownership.
2. *Maximum lot coverage.* The total lot coverage shall be 60 percent. If a parking garage which accommodates a minimum of 20 percent of the required parking spaces is constructed as part of the development, the total lot coverage may be increased to 70 percent.

D. *Height regulations.* No structure shall exceed 75 feet in height, except as provided for elsewhere in this ordinance.
(Ord. No. 86-16, 4-1986; Ord. of 2-2006)

 Sec. XXVI. Planned commercial development district (PCD).

A. *General description.* The planned commercial development district (PCD) is established to encourage creative and resourceful projects for interrelated commercial, office and residential uses unified by a Development Plan. The PCD district is intended to provide for variety and flexibility in design necessary to implement integrated planned development projects. It is intended that the PCD district be established along streets having a designated classification of arterial on the Farragut Major Road Plan or a street which directly accesses a street having a designated classification of arterial on the Farragut Major Road Plan.

 B. *Objectives.* The Planned Commercial Development District (PCD) shall have the following characteristics:

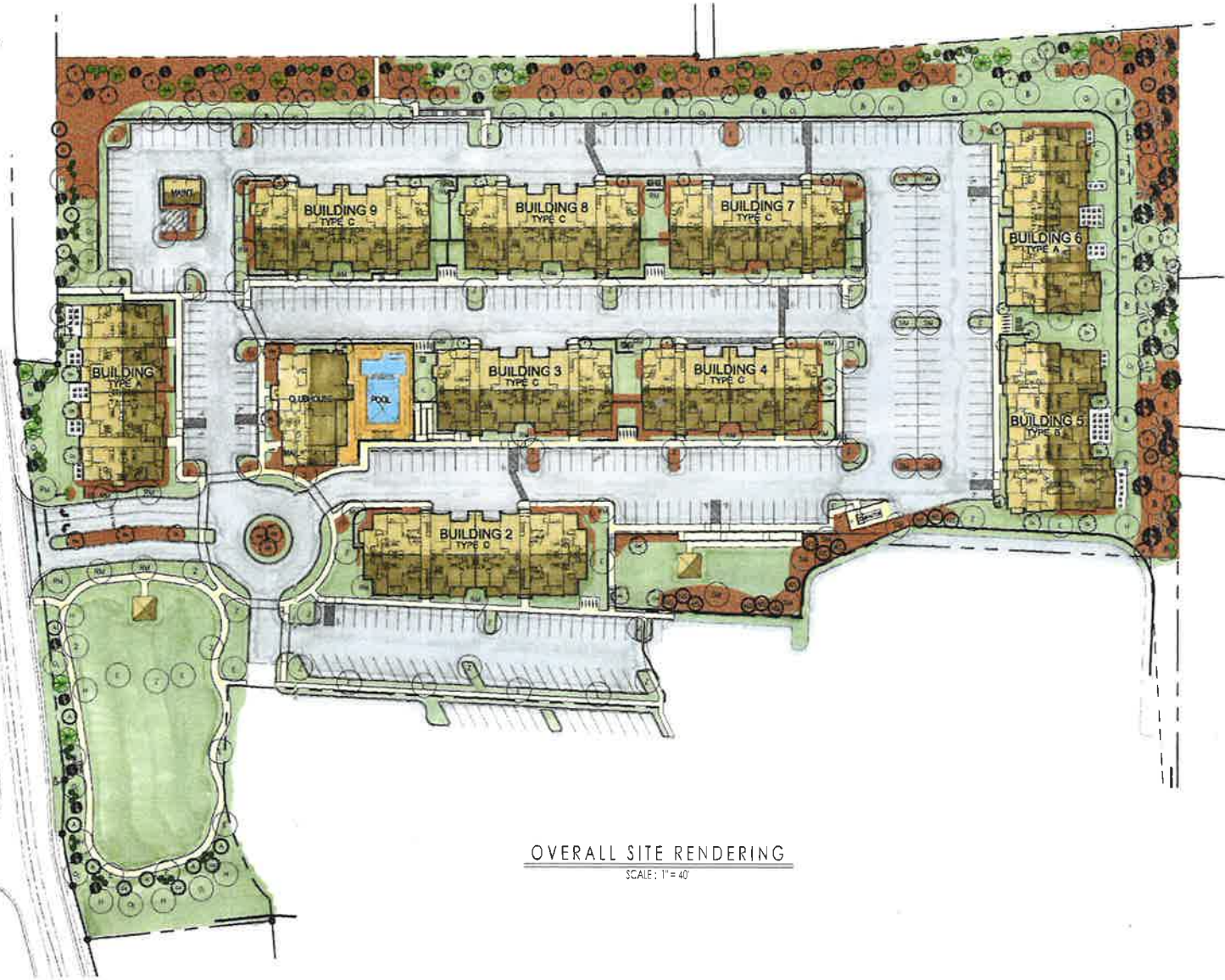
1. *Open space.* Encourage ingenuity, creativity, and resourcefulness in land planning techniques by developing functional common open spaces. Locate and orient outdoor open spaces (e.g. plazas, courtyards, patios, outdoor seating and benches, small park spaces or landscaped features) to provide focal points to be actively used. Provide landscape enhancements (e.g., bioswales, rain gardens, planters, flower gardens) to add visual interest, screen parking areas, and complement outdoor open spaces.

2. *Sense of place.* Allow the design of commercial, office and residential developments that are architecturally and environmentally innovative and that achieve more efficient use of land than is possible through the application of conventional zoning and subdivision standards.
3. *Protection of natural resources.* Ensure the conservation of the natural environment including trees, floodplains, sinkholes, wetlands, springs, streams, wet weather conveyances, endangered species habitat, steep slopes, rock formations, other unique topographic features, and historic features per federal, state, and the Town of Farragut's laws and/or ordinances. Protect geological resources such as groundwater, soils, and drainage areas.
4. *Efficient and innovative land use practices.* Encourage efficient and innovative use of land, street networks, utility locations, and parking. In terms of stormwater management for new developments, at least twenty-five (25) percent of the development's total area shall be designed so that its runoff will be accommodated through Low Impact Development (LID) measures which would rely on infiltration, evapotranspiration, or capture/reuse of stormwater runoff. Such measures may include, but are not limited to, permeable pavers, rain gardens, bioswales, vegetated roofs, rainwater capture systems and/or a combination thereof. The use of LID measures to meet this requirement shall be demonstrated on the drainage plan and in the drainage calculations for the development and the applicable LID measures specified as part of the site and landscape plan submittals.
5. *Connectivity.* Provide for context appropriate (i.e., appropriate in relation to the proposed development and its physical surroundings) pedestrian and vehicular connectivity. This shall include providing connections within the property and to abutting properties pedestrian connections into the development from the public street(s), and the construction of pedestrian facilities along the public street(s) frontages.
6. *Compatibility and consistency.* Maintain compatibility with nearby development and consistency with the Farragut Comprehensive Land Use Plan Update, Pedestrian and Bicycle Plan, and all other adopted plans and ordinances of the Town of Farragut and any subsequent amendments.

C. *Minimum standards.*

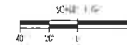
1. *Land uses.*
 - a. Unless otherwise prohibited through the approved Development Plan, any use permitted within the general commercial and office districts shall be allowed within the PCD district. Residential and mixed use may also be permitted as part of the Development Plan. Where a property is zoned PCD and is shown to be within the area identified as Mixed Use Town Center (MUTC) on the Future Land Use Map, the use shall be permitted and comply as established in Chapter 3, Section XII.F.;
 - b. Uses within a PCD that are automobile oriented, such as fuel centers, drive-throughs, automobile services, retail rental and leasing of automobiles, etc., shall be arranged so that they are situated internal to the development;

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OVERALL SITE RENDERING

SCALE: 1" = 40'



NO. 1070
JULY 27, 2016
PROJECT
KINGSTON PIKE VILLAGE

NO. 1070
JULY 27, 2016
PROJECT
KINGSTON PIKE VILLAGE

NO. 1070
JULY 27, 2016
PROJECT
KINGSTON PIKE VILLAGE



R-01

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ENLARGED
SITE RENDERING - EAST
SCALE: 1" = 20'



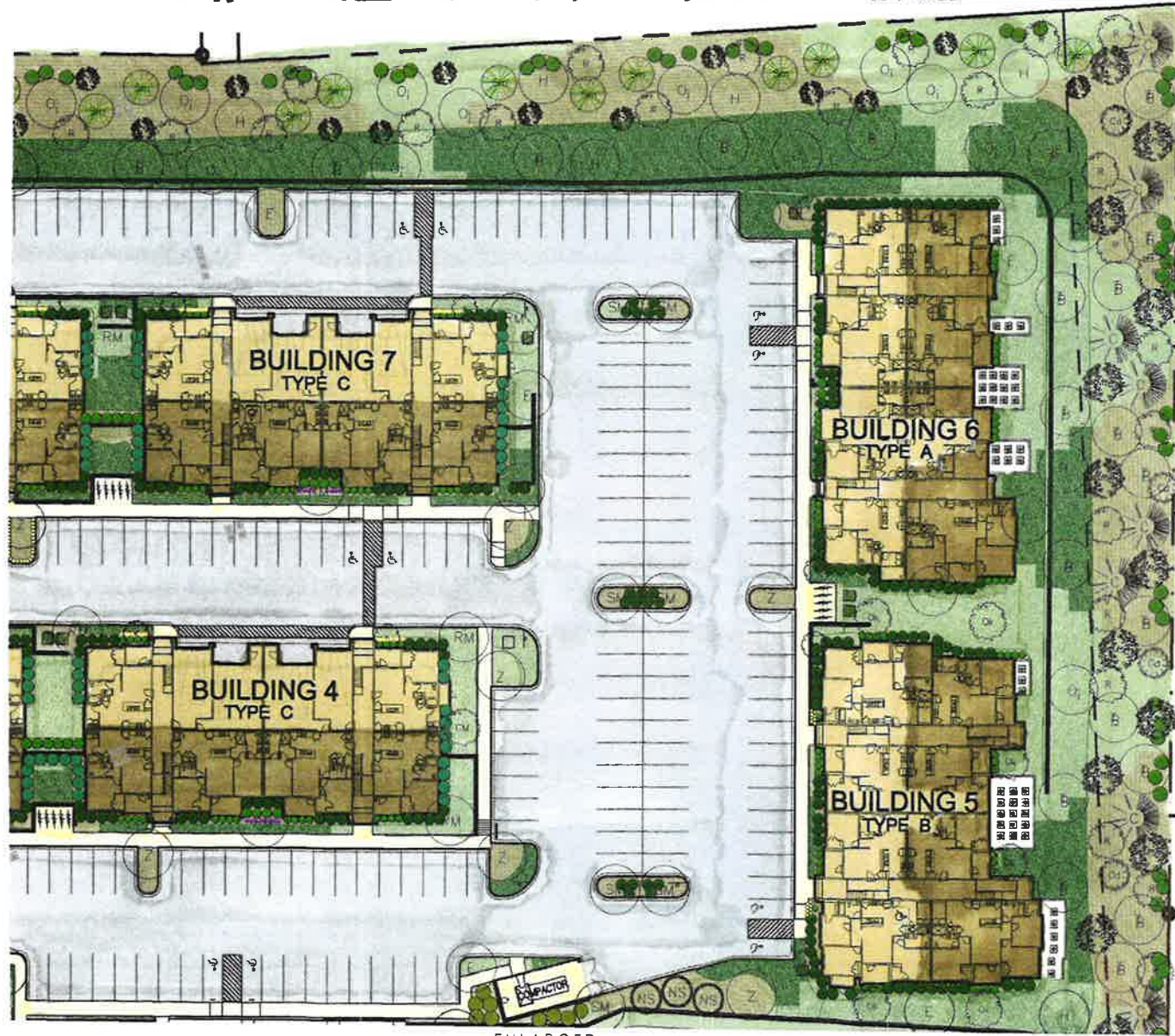
ENLARGED
SITE RENDERING-NORTH

SCALE: 1" = 20'

SCALE: 1" = 20'

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SCALE: 1"=20'



ENLARGED
SITE RENDERING-WEST
SCALE: 1"=20'



PLEASE SEE REVISION #10
Kingston Pike Village
Rail Road
Portage, Tennessee





↑
Soil nail wall w/ no veneer

Keller North America, Inc.
3939A Papermill Rd
Knoxville TN 37909
Tel: 865-583-8212
Fax: 865-583-8265



Georgia Power Structure 82, Atlanta, GA 2018
2,000 SF Soil Nail Wall w/ Rubbed Finish and Formed Top of Wall



Heards Ferry Elementary School, Atlanta, GA 2014
18,000SF Soil Nail Wall w/ Rubbed Finish and Formed Top of Wall



Chick Fil A Headquarters, Atlanta, GA 2017

proposed wall covering by applicant

Keller North America, Inc.
3939A Papermill Rd
Knoxville TN 37909
Tel: 865-583-8212
Fax: 865-583-8265

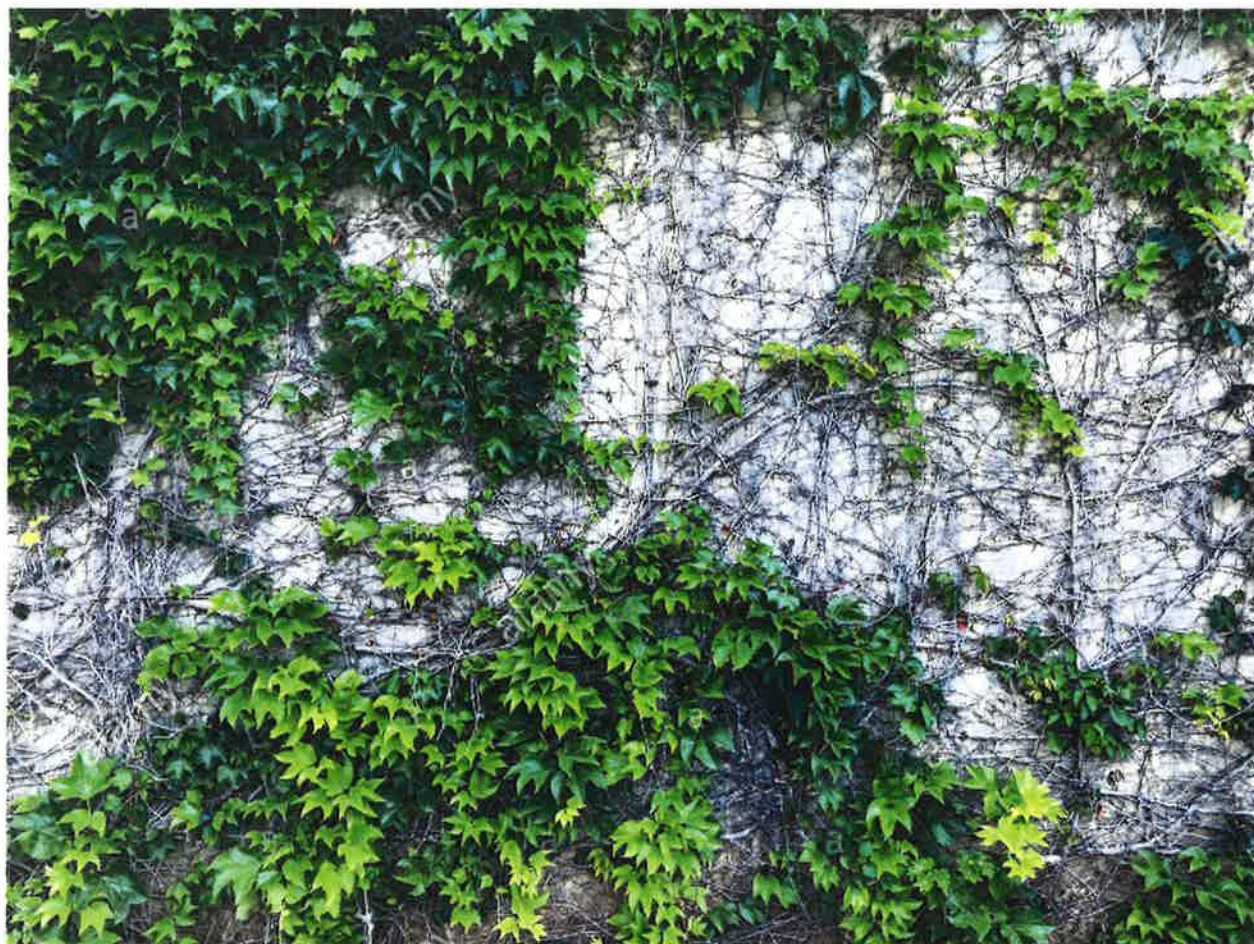


15,000 SF Soil Nail Wall w/ Screeded Finish and Formed Top of Wall



Broadstone Juniper, Atlanta, GA 2015
15,000 SF Soil Nail Wall w/ Screeded Finish and Formed Top of Wall





 alamy stock photo

W3RRJF
www.alamy.com

masonry block wall veneer
referenced in staff report



REPORT TO THE FARRAGUT MUNICIPAL PLANNING COMMISSION

PREPARED BY: Mark Shipley, Community Development Director

SUBJECT: Discussion and public hearing on the proposed update of the Farragut Sign Ordinance
(Town of Farragut, Applicant)

INTRODUCTION AND BACKGROUND: At the Planning Commission meeting last month, a training session workshop was conducted to review the process that has been followed in relation to updating the Farragut Sign Ordinance so that it is compliant with the U.S. Supreme Court's decision in the Reed vs. Town of Gilbert case.

Staff discussed the changes that are proposed to the ordinance. There were some minor amendments discussed which the staff has addressed in the latest ordinance that will be sent to you in an e-mail. Also included will be a clean copy of Ordinance 20-04.

RECOMMENDATION: Staff has forwarded Ordinance 20-04 to the Town Attorney for his review of compliance with all applicable legal considerations. Staff will also be taking the ordinance to the Visual Resources Review Board at their next meeting on March 24. Staff plans to conduct a workshop with the Board of Mayor and Aldermen prior to this ordinance being presented to them for a vote. Staff recommends approval of Ordinance 20-04.

RESOLUTION PC-20-02

FARRAGUT MUNICIPAL PLANNING COMMISSION

A RESOLUTION TO APPROVE AN AMENDMENT TO CHAPTER 109-SIGNS, OF THE CODE OF ORDINANCES OF THE TOWN OF FARRAGUT, TO REPLACE THE EXISTING SIGN ORDINANCE WITH A NEW SIGN ORDINANCE

WHEREAS, the Tennessee Code Annotated, Section 13-4-201et seq, provides that the Municipal Planning Commission shall make and adopt a general plan for the physical development of the municipality; and

WHEREAS, the Farragut Municipal Planning Commission has adopted various elements of a zoning plan as an element of the general plan for physical development; and

WHEREAS, a public hearing was held on this request on March 19, 2020;

NOW, THEREFORE, BE IT RESOLVED that the Farragut Municipal Planning Commission hereby recommends approval to the Farragut Board of Mayor and Aldermen of an ordinance, amending Chapter 109 - Signs, by replacing it in its entirety with Ordinance 20-04.

ADOPTED this 19th day of March 2020.

Rita Holladay, Chairman

Rose Ann Kile, Secretary

ORDINANCE:	20-04
PREPARED BY:	Shipley
REQUESTED BY:	Town of Farragut
CERTIFIED BY FMPC:	March 19, 2020
PUBLIC HEARING:	_____
PUBLISHED IN:	_____
DATE:	_____
1ST READING:	_____
2ND READING:	_____
PUBLISHED IN:	_____
DATE:	_____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE TOWN OF FARRAGUT TENNESSEE, PURSUANT TO AUTHORITY GRANTED BY SECTION 6-2-201, TENNESSEE CODE ANNOTATED, BY AMENDING CHAPTER 109 – SIGNS, TO REPLACE THE EXISTING SIGN ORDINANCE WITH A NEW ORDINANCE

WHEREAS, the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, wishes to amend Chapter 109 - Signs, of the Code of Ordinances of the Town of Farragut, to replace the existing Sign Ordinance with a new Sign Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Farragut, Tennessee, that Chapter 109 – Signs, of the Code of Ordinances of the Town of Farragut, is hereby amended as follows:

SECTION 1.

The Code of Ordinances of the Town of Farragut, Chapter 109 – Signs, is amended by deleting it in its entirety and substituting in lieu thereof the following:

Chapter 109 – Signs.

Section 109-1. Authority.

This chapter shall be known as the "Sign Ordinance of the Town of Farragut, Tennessee." This chapter is adopted under the authority granted by T.C.A. § 6-2-201.

Section 109-2. Purpose, Intent, and General Scope.

(a) The purpose and intent of this chapter is the following:

- (1) Regulate the number, location, size, type, illumination, and other physical characteristics of signs within the Town in order to promote the public health, safety and welfare.
 - (2) Maintain, enhance, and improve the aesthetic environment of the Town by preventing visual clutter.
 - (3) Improve the visual appearance of the Town while providing for effective means of communication, consistent with constitutional guarantees.
 - (4) Avoid signage that is a threat to safety due to its placement and other physical characteristics.
 - (5) Ensure the safe construction and maintenance of signs, and
 - (6) Support businesses in the Town by providing for fair and consistent sign allocations and enforcement of the sign regulations set forth herein.
- (b) This ordinance is not intended to regulate the message on any sign, any building design, any display not defined as a sign, or any sign which cannot be viewed from outside a building.

Section 109-3. Provisions declared to be minimum requirements.

The provisions of this chapter are considered to be minimum requirements. Wherever there is a discrepancy between the minimum standards noted in this chapter and those contained in any other lawfully adopted regulation or ordinance of the town, the strictest standard shall apply.

Section 109-4. Severability.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 109-5. Substitution.

Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.

Section 109-6. Definitions.

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

Abandoned sign means a sign which identifies or advertises a business, lessor, owner, product, or activity that has been discontinued for 90 days or more.

Architectural compatibility means visual harmony and consistency with regard to color, building/sign materials, style, mounting, and illumination.

Athletic field means a piece of land designed, approved, and dedicated for playing a game.

Banner sign means any sign of flexible lightweight material that allows movement caused by wind. A flag, as defined herein, shall not be considered a banner sign.

Changeable copy sign means any sign where letters or numbers displayed on the sign are designed to be changed frequently to display different messages.

Dilapidated sign means a sign that is in a bad, unsafe, or unsightly condition due to neglect or misuse.

Flag means a fabric sign of a non-commercial nature with a distinctive color and design that is used as an emblem, standard, decoration, or symbol and that is hoisted on a permanent freestanding flagpole or mounted with a pole attached to a building.

Freestanding sign means a sign that is either anchored in the ground or secured so that it is not subject to being moved by wind and that is independent of any building.

Freestanding building frontage sign means a non-illuminated sign of a solid material with copy that is meant to be readable only to a pedestrian and that is placed near the front of a building.

Ground-mounted sign means a sign erected on a freestanding frame and not attached to any building. Such signs may be two-sided, provided that both sides cannot be seen simultaneously from any point. Such signs have a solid base with no exposed poles.

Interior accessory freestanding sign means a sign permitted interior to a development and not meant to be readable from a public street, public access easement, or adjacent property.

Interstate/interchange pole sign means a sign permitted near the interstate interchange as stipulated in this ordinance.

Legibility means how easy a sign is to read. This is based on the characteristics of letters, numbers, and characters that make it possible to differentiate one from another.

Manual on Uniform Traffic Control Devices (MUTCD) means the manual produced by the Federal Highway Administration that addresses three specific types of signs: guide, warning, and directional. The manual includes minimum size, height, and placement standards to achieve readability and prevent traffic accidents.

Non-commercial means not naming, advertising, or calling attention to a business or commercial product, service, or activity.

Normal maintenance means replacing lights, painting, staining, repairing a damaged element of a sign, or replacing a sign face that has faded over time with exposure to the elements with an identical sign face. Normal maintenance shall not include any other modifications to a sign.

Peripheral accessory freestanding sign means a sign permitted near the entrance and exit points to a development.

Permanent ground mounted subdivision sign means a permanent sign permitted near the entrance to a subdivision.

Permanent parcel sign means a wall mounted sign permitted on a principal dwelling unit.

Portable sign means a sign not permanently attached to the ground or a building and is easily removable using ordinary hand tools.

Primary permanent ground mounted sign means the primary sign permitted for a single-use or multiple use non-residential development.

Primary permanent wall mounted sign means the primary wall sign for a development or tenant.

Prohibited sign means any sign not specifically permitted in this ordinance or that is not compliant with the applicable provisions of this ordinance.

Projecting sign means a sign, other than a wall mounted sign, which is affixed to and projects from a building, wall, or support structure such as a column, forming an angle between said building or wall and the face of the sign.

Public access easement means a recorded access easement that runs with the land and that provides direct two-way public access to at least two parcels.

Roof sign means any sign attached to a building which projects in part or in whole above the top edge of a building wall.

Sandwich board sign means a freestanding temporary sign, with no moving parts or lights, displayed outside a business during business hours. It is not intended as permanent business signage.

Sign means any letter, number, figure, symbol, trademark, graphic, logo, design, or device mounted or otherwise placed and intended to be visible from outside of a building, used to attract attention in order to advertise, identify, announce, notify, direct, or communicate. Sculptures, artwork, and architectural accents shall not generally be considered a sign unless they would otherwise be used as outlined in this definition.

Sign area means the entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure.

Snipe sign means a sign affixed to trees, utility poles, light poles, fences, or other objects.

Temporary means an event or activity that has a limited amount of time.

Temporary freestanding subdivision entrance sign means a sign permitted on a temporary basis near the entrance to a subdivision.

Temporary parcel sign means a sign permitted on a parcel for a temporary event or activity.

Temporary freestanding subdivision sign means a sign permitted on a temporary basis for a subdivision.

Under-canopy sign means a sign that is hung perpendicular to a building under a canopy which projects over the public entrances into a building.

Visibility obstruction means a sign that by virtue of its placement has created a visibility obstruction harmful to the public safety.

Wall sign means a sign attached parallel to and projecting not more than 12 inches from the wall of a building and does not project in part or in whole above the top edge of a building wall.

Window sign means a sign that is painted on, attached to, or suspended directly behind or in front of a window or the glass portion of the door.

Section 109.7. Administration.

- (a) *Sign administrator to enforce chapter.* The Town administrator or his/her designee shall act as the sign administrator and shall enforce and carry out all provisions of this chapter. In the event there is a question concerning the general intent or meaning of any provision of this chapter, the sign administrator shall have the authority to make such administrative decisions and interpretations. Administrative interpretation shall in no way be construed as permitting or granting an exception to the provisions of this chapter. When the definition of a sign or an issue concerning architectural compatibility, illumination, or some unique physical characteristic of a sign are questioned by the sign administrator, the sign administrator may consult with the Visual Resources Review Board about such question.
- (b) *Application and permit process.* Unless otherwise provided by this chapter, permits are required for all types of signs. It shall be unlawful for any person, agency, firm, or corporation to erect, structurally repair (other than normal maintenance), replace, alter, relocate, change the panels of, change the establishment being advertised on a sign, as defined in this chapter, without first obtaining a permit to do so from the Town.
 - (1) *General application requirements and fees.* Applicants shall submit a completed sign application and the required fee to the Town prior to commencing any work on installation of a new or replacement sign. The required fee is per the schedule approved by the Town Board of Mayor and

Aldermen. Per the approved fee schedule, an additional penalty fee shall be paid if work is commenced prior to receiving a permit from the Town. Government or government sponsored entities are waived from the fee requirement.

- (2) *Application required for each sign.* A separate application must be completed and submitted for each new or replacement sign.
- (3) *Wall mounted sign application reviews.* Wall sign applications shall be reviewed by the sign administrator for conformance with the requirements. The sign administrator shall approve or deny the application within 15 working days of submittal. When architectural compatibility, illumination, or some unique physical characteristic of a sign are questioned by the sign administrator, the sign administrator may consult with the Visual Resources Review Board about such matter.
- (4) *Wall mounted sign application submittal requirements.* All wall sign applications shall include the following:
 - a. A dimensioned schematic drawing of the building showing the proposed sign location.
 - b. A photograph of the businesses located on either side which demonstrates the color, material, and illumination of these adjacent signs.
 - c. The width of the building wall or lease space upon which the sign is to be mounted.
 - d. A dimensioned colored drawing (or simulated photograph) of the sign showing the copy on the sign face, and
 - e. An indication of how the sign is to be mounted and illuminated.
- (5) *Ground-mounted sign application reviews.* Ground-mounted sign applications shall be reviewed by the Visual Resources Review Board for conformance with the requirements of this chapter and any overlapping regulations, including the Architectural Design Standards, as amended, prior to the issuance of a sign permit.
- (6) *Ground-mounted sign submittal deadlines.* Ground-mounted sign applications shall be submitted in accordance with the deadlines established by the Town for the meeting at which the ground mounted sign is to be considered by the Visual Resources Review Board.
- (7) *Ground-mounted sign coordination with site and landscape plans.* As part of a site plan and landscape plan review process with the Planning Commission and Visual Resources Review Board, applicants for new developments or redevelopments shall take into account anticipated locations for ground mounted signs. These should be shown on both the site and

landscape plans in order to help lessen conflicts with landscaping, utilities, and other site development components.

(8) *Ground-mounted sign application submittal requirements.* All ground-mounted sign applications shall be accompanied by complete sets of plans which include the following:

- a. A dimensioned site plan of the parcel showing the proposed sign location in relation to property lines and platted easements.
- b. A proposed landscaping plan for the area around the sign base.
- c. A detail of the sign lighting, including lighting placement, type, and lumens.
- d. A detail of the materials and colors used for the sign structure.
- e. A dimensioned colored drawing of the sign showing the copy on the sign face, height and length of the sign face and sign structure, overall height of the sign, and size of the address numbers required at the top of the sign.
- f. Information that may be requested by the sign administrator to help verify compliance with the Architectural Design Standards, and
- g. An acknowledgment that an as-built survey may be required by the sign administrator to verify compliance with applicable provisions associated with ground-mounted signs.

(9) *Expiration of sign permits.* A sign permit shall become null and void if installation of the sign has not been initiated within 180 days of issuance. If work authorized by such permit is suspended or abandoned for 180 days any time after the work has been initiated, the sign permit shall be void and a new permit shall be first obtained to resume work. After a permit expires, a partially completed sign structure must be removed within 30 days if no new permit is issued.

(10) *Changes to an approved sign permit.* A new permit may be required, as determined by the sign administrator, where changes have been made to an approved sign that would alter the physical characteristics of the sign.

(c) *Text amendment process.* Amendments to the text of this chapter shall first be reviewed by the Visual Resources Review Board and the Town Municipal Planning Commission with recommendations regarding the proposed change forwarded to the Town Board of Mayor and Aldermen.

Section 109-8. Enforcement.

(a) *Sign enforcement process.* Noncompliance with this chapter shall be deemed a violation. When the sign administrator finds violations of the provisions of this chapter, the administrator shall document such findings and take the appropriate

action to correct said violations. A citation to municipal court may be issued to the owner, agent, or employee for violations of this chapter.

- (b) *Separate offense.* Each day a violation continues shall be considered a separate offense. The owner or tenant of any building, sign, premises, or sign thereon, and any architect, builder, contractor, agent, or other person who commits, or participates in, assists in, or maintains any violation hereunder may be found responsible for a separate offense. Nothing herein contained shall prevent the town from taking such lawful action as is necessary to prevent or remedy any violation of this article.

Section 109-9. Appeals.

- (a) The Town Board of Zoning Appeals shall have the following responsibilities:
 - (1) *Interpretations/General Appeals.* To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or refusal made by the sign administrator and/or the Visual Resources Review Board in the carrying out or enforcement of any provision of this chapter, and
 - (2) *Variances.* To authorize, upon an appeal relating to said property, a variance from such strict application so as to relieve such difficulties or hardship. Variances shall not be granted to allow a larger sign or a sign which is otherwise not permitted in this chapter. Variances shall be granted only whereby special physical characteristics of the lot, parcel, or tract exist, that the strict application of the provisions of this chapter would deprive the applicant of an otherwise permitted sign.
- (b) Appeals procedure.
 - (1) *Denial required.* After a written denial of a sign permit from the sign administrator, a party may make an application for an interpretation or a variance.
 - (2) *General application requirements and fees.* The application shall be submitted to the Town in accordance with the deadlines established by the Town for the meeting at which the application is to be considered by the Board of Zoning Appeals. The required fee associated with the application is per the schedule approved by the Town Board of Mayor and Aldermen. The Board of Zoning Appeals shall consider and decide all appeals within 30 days of first hearing the appeal, and
 - (3) *Minutes.* The minutes of the Board of Zoning Appeals shall fully set forth such circumstances or conditions warranting the granting of a variance.

Section 109-10. Legal nonconforming signs.

- (a) *Definition.* Existing signs which were legally in existence prior to the adoption of the ordinance from which this chapter is derived which do not conform to the specific provisions of this article are declared legal nonconforming signs.
- (b) *Continuance.* Any legal nonconforming sign may be continued in operation and maintenance after the effective date of the ordinance from which this chapter is derived, provided:
 - (1) The sign is not relocated or replaced.
 - (2) The structure or size of the sign is not altered in any way except toward compliance with this chapter.
 - (3) No new or additional signs are added to the premises, and
 - (4) Other than changing the text of changeable copy signs or normal maintenance, no other existing permanent signs are changed or replaced on the premises.
- (c) *Maintenance/damage/deterioration.* A legal nonconforming sign is subject to all requirements of this chapter regarding safety, maintenance, and repair. However, if the sign suffers more than 50 percent damage or deterioration, as based on a certified appraisal, it must be brought into conformance with this chapter or removed.

Section 109-11. General restrictions.

- (a) All signs erected, replaced, reconstructed, expanded, or relocated on any property within the Town shall conform with the provisions of this section.
 - (1) *Signs not requiring permits.* The following types of signs are exempted from permit requirements but must be in conformance with all other requirements of this chapter:
 - a. Signs authorized in accordance with the Manual of Uniform Traffic Control Devices (MUTCD), as amended.
 - b. Signs placed by or on behalf of a governmental entity.
 - c. Street or address identification numbers/letters as stipulated in the adopted building and/or fire code.
 - d. Permanent parcel signs.
 - e. Signs, as provided for in TCA, Title 2, Chapter 7, Section 143. Tennessee Freedom of Speech Act.
 - f. Temporary signs of any kind, unless a permitting process is specifically required in association with specific events, programs, or community objectives promoted by the Town of Farragut.
 - g. Flags, and
 - h. Window signs.
 - (2) *Prohibited signs.* The following types of signs are prohibited within the Town:

- a. Abandoned or dilapidated signs, which shall be removed by the property owner or responsible entity.
- b. Any sign placed on public property or right-of-way without the written consent of the public authority having jurisdiction over the property.
- c. Any sign which bears or contains statements, or words of an obscene, pornographic, or immoral character, as defined by the United States Supreme Court.
- d. Any signs with flashing, chasing, pulsating, twinkling, dancing, scintillating, and/or oscillating lights or any other rotating, revolving, or otherwise moving part or the appearance of moving parts or motion. This includes individuals holding signs not otherwise provided for in accordance with the United States Constitution.
- e. Off-premises signs, unless required by and in accordance with the MUTCD or placed by or authorized on behalf of or by a governmental entity.
- f. Off-premises outdoor advertising (billboards).
- g. Banners, feather flags, pennants, ribbons, festoons, buntings, streamers, spinners, balloons, or other types of lighter-than-air or wind-activated signs and attention getting devices.
- h. Bollard covers, tire stack covers, and similar signs.
- i. Portable signs that do not comply with the location, size, or use restrictions of this chapter.
- j. Search lights.
- k. Signs attached to, suspended from, or painted on any vehicle or similar mobile structure which is regularly parked or situated on any street, parking lot, or private property when one of the purposes of so locating such vehicle or similar mobile structure is to display, demonstrate, advertise, or attract the attention of the public.
- l. Signs imitating or resembling official traffic or government signs or signals.
- m. Roof signs, or signs extending beyond the main roof line, provided that signs may be mounted on an architectural feature extending beyond the roof line if such feature is fully enclosed and considered an integral part of the occupied space, such as an atrium or high ceiling.
- n. Snipe signs, and
- o. All other signs not specifically permitted or that are not a lawful nonconforming sign.

(3) *Criteria in determining sign area.*

- a. Ground Mounted and Other Non-Wall Mounted Signs.
 - (1) The sign area for all ground mounted (and other non-wall mounted) signs shall include and encompass the entire sign face, framing, trim, and associated moldings. The area shall not include the supporting sign structure.

- (2) For a sign with two parallel faces, only the area of a single face shall be considered. If the faces of a sign are not parallel, then the total sign area shall be the sum of the areas of the individual, non-parallel faces.
 - (3) Where a ground mounted sign is mounted on a larger ornamental wall structure, such as on a subdivision entrance wall feature, its area shall be measured in the same fashion as a wall mounted sign (see part b. below).
- b. Wall Mounted Signs.
- (1) For cabinet type/style signs, the sign area shall include the external perimeter of the entire cabinet measured to include all sign elements, including any internal spaces where such sign includes cut-out areas.
 - (2) For signs that include channel letters and/or other individual elements (letters, logos, etc.) mounted on raceways or directly on a wall, the sign area shall be measured by drawing an imaginary single, regular geometric shape of a rectangle, circle, or equilateral triangle around and encompassing all sign elements. The text and other graphics (sign elements) do not have to be physically, visually, or topically related, or physically connected to be included in the measured area.
 - (3) For window signs, the sign area shall be calculated separately for each window sign and, for each sign, shall include all background, framing, or other supporting material that forms the physical extent of the sign.
- (4) *Criteria in determining sign height for ground-mounted signs.* Unless provided for otherwise in this chapter, the sign height shall be measured by the vertical dimension from the ground level at the base of the sign, including the supporting structure, to the top most point of the sign and/or its associated framing/support, exclusive of the additional 18 inches permitted to accommodate address numbers. Unless otherwise specified in this chapter, if the ground level at the base of the sign is lower than the adjacent street grade, the height shall be computed from the adjacent street grade, excluding elevated bridges or interchanges.
 - (5) *Criteria in determining setback for ground-mounted and pole signs.* The setback shall be measured from the farthest most protrusion of the sign to the nearest point of a property line. All signs shall be located outside of the visibility triangle. For the purposes of this article, the interstate highway right-of-way shall be considered a side or rear lot line.
 - (6) *Construction specifications.* All signs shall be installed in compliance with all building and fire codes adopted by the Town. All electrical service to ground-mounted and pole signs shall be under ground. Any lighting of signs shall be installed to prevent any glare upon adjoining properties or rights-of-way.
 - (7) *Sign maintenance and removal.*

- a. All signs shall be properly maintained. Exposed surfaces shall be clean and painted if paint is required. Defective parts shall be replaced. The sign administrator shall have the right to order the repair or removal of any sign which is defective, damaged, or substantially deteriorated.
- b. When any sign is removed, all structural components shall be removed with the sign and such removal shall be in compliance with all building and fire codes adopted by the Town. All structural components of ground-mounted and pole signs shall be removed to ground level. The structural components of all other signs, including painted wall signs, shall be removed back to the original building configuration. All visual remains of the sign shall be removed.

Section 109-12. Sign regulations by land use and/or zoning districts.

All signs shall comply with the following regulations. Any sign that is not specifically permitted shall be prohibited.

- (a) *Signs permitted in all zoning districts.* The following signs are permitted in all zoning districts subject to compliance with all applicable provisions of this chapter or other applicable Town regulations, standards, or requirements:
 - (1) Flags.
 - (2) Signs authorized in accordance with the Manual of Uniform Traffic Control Devices (MUTCD), as amended.
 - (3) Signs, as provided for in TCA, Title 2, Chapter 7, Section 143. Tennessee Freedom of Speech Act.
 - (4) Signs placed by or on behalf of a governmental entity.
 - (5) Street or address identification numbers/letters as stipulated in the adopted building and/or fire code.
 - (6) Temporary parcel sign, and
 - (7) Temporary signs specifically authorized by the Town to promote specific events, programs, or community objectives.
- (b) *Signs permitted on land for residential uses.* The following signs are permitted on land used for residential purposes. Recreational facilities developed as part of a residential development shall also follow these regulations:
 - (1) *Permanent ground mounted subdivision sign.* Once a preliminary plat or a site plan has been approved in relation to a subdivision, a permanent ground mounted subdivision sign shall be permitted as follows:
 - a. *Sign area.* A subdivision is permitted a total of 40 square feet per single-family or multi-family development entrance, with either one ground-mounted sign not to exceed 40 square feet or two ground mounted signs not to exceed 20 square feet each.

- b. *Sign placement.* Such signs and the structures/walls on which they are affixed shall be out of any platted drainage or utility easements and shall be set back a minimum of ten feet from any front property line(s) and five feet from any side or rear property line. Such signs and the structures/walls on which they are affixed shall be located on either a platted open space lot or within a platted sign easement. Any signs or structures proposed within the public right of way as part of a streetscape plan submittal, shall be recommended for approval by the Planning Commission and Visual Resources Review Board before being presented to the Board of Mayor and Aldermen for approval.
 - c. *Sign height.* Permanent freestanding subdivision signs, excluding the supporting structure, shall not exceed six feet in height.
 - d. *Sign illumination.* If such sign or its supporting structures are to be illuminated, external illumination shall be used and such illumination shall be directed only onto the sign face. Each individual light fixture shall not exceed 850 lumens per fixture and shall be shielded so that no glare is created, and
 - e. *Sign landscaping.* Each sign shall be landscaped with at least six shrubs that are a minimum of 12 inches in height and/or an evenly distributed area of seasonal or perennial flowers with such area being not less than 50 square feet. All qualifying landscaping shall be within seven feet of the sign base.
- (2) *Temporary freestanding subdivision entrance sign.* One hard surface (minimum of one inch in thickness) non-illuminated temporary sign is permitted per public street entrance into a new subdivision development, provided the following criteria are met:
- a. The sign shall not exceed 32 square feet.
 - b. The sign shall not exceed ten feet in overall height.
 - c. The sign shall be set back a minimum of 20 feet from the back of street curb.
 - d. The sign shall not be erected until a preliminary plat or site plan has been approved, and
 - e. The sign shall be removed within 15 days of the installation of the permanent freestanding subdivision sign.
- (3) *Temporary freestanding subdivision sign.* One hard surface (minimum of one inch in thickness) non-illuminated temporary sign is permitted per new subdivision development provided the following criteria are met:
- a. The sign shall not exceed 32 square feet.
 - b. The sign shall not exceed ten feet in overall height.
 - c. The sign shall be set back a minimum of 20 feet from the back of street curb.

- d. The sign shall not be erected until a preliminary plat or site plan has been approved, and
 - e. The sign shall be removed when at least 75% of the units/lots within the development, as based on the approved preliminary plat, have received Certificates of Occupancy.
- (4) *Permanent parcel sign.* Each individual house lot shall be permitted one non-illuminated permanent wall mounted sign not to exceed two square feet.
- (5) *Temporary parcel sign.* Each individual house lot shall be permitted one temporary parcel sign not to exceed six square feet. This may include a sign where the owner consents and the property is being offered for sale or lease. A temporary parcel sign shall be removed within two days of the termination of the event/activity for which the sign was used. Where the termination of an event/activity is questioned by the sign administrator, the burden shall be on the sign holder to verify that the event/activity has not terminated.
- (6) *Flag.* Each single-family house lot with an occupied dwelling unit shall be permitted one freestanding flagpole not to exceed 25 feet in height with up to two flags not to exceed 15 square feet each being permitted on such pole. The flagpole shall meet the setbacks that apply to the principal building (the dwelling unit).

In lieu of a freestanding flagpole, one house mounted flagpole shall be permitted provided the pole does not exceed six feet in length and the flag does not exceed 15 square feet.

- (7) *Subdivision exit sign.* One non-illuminated ground-mounted sign not to exceed six square feet in size and four feet in height shall be permitted per single-family or multi-family development entrance. Such sign shall be placed at the rear of the permanent subdivision sign so that it is only visible to vehicles exiting the development.

Where a single-family or multi-family development does not have a permanent subdivision sign at its egress point or because of the setback or angle of the permanent subdivision sign is such that the message area would not be readable; one non-illuminated single-faced freestanding homeowner association notification sign shall be permitted per egress point. Such freestanding sign shall be set back a minimum of five feet from all property lines and shall be located on property which is part of the subdivision and which is zoned the same as the subdivision.

Where such sign is proposed on property which is not owned by the homeowners' association, an appropriate easement shall be recorded as a

condition for approval of the sign. Such signs shall be landscaped per this chapter and the sign face shall be oriented so that it is only visible to vehicles exiting the development. The back of the sign face shall be constructed of material which is non-reflective and the sign shall be generally compatible with other entrance features in the immediate area.

(c) *Signs permitted for developments being used for single-use non-residential purposes, including freestanding churches and schools, are as follows:*

(1) *Primary permanent ground mounted sign.* Unless provided for otherwise in this chapter, one primary permanent ground mounted sign shall be permitted provided the following criteria are met:

- a. *Sign area and setback determination.* The sign area is based on its setback from the front property line. The minimum setback from a front property line is ten feet with the maximum permitted sign face area being 20 square feet. For each additional foot that the sign is set back from the ten-foot minimum, the sign face area may be increased by two square feet with the maximum sign face area being 40 square feet at a 20-foot setback. Sign structures shall also be outside of any platted easements and at least ten feet from any side or rear property line.
- b. *Corner lot.* If a property accesses two different public streets, a primary permanent ground mounted sign shall be permitted for each street provided the signs are at least 150 feet apart, as measured from a straight line connecting the closest points of each sign structure. Each sign shall face, in a perpendicular manner, the nearest public street from which the access is provided.
- c. *Signs on same frontage.* If a property fronts the same public street for at least 400 feet, a second primary permanent ground-mounted sign shall be permitted along such frontage provided the structure of such sign is at least 350 feet from the structure of the other sign permitted along the same frontage.
- d. *Height and addressing.* Unless otherwise provided for in Section 109-11. (4), the maximum height of a primary permanent ground-mounted sign is six feet. An additional 18 inches of overall sign height is permitted to enclose or otherwise provide for address numbers. Address numbers shall be at the top of the sign and shall be eight inches in number height. Where a property abuts two public streets and has a sign facing each street, the address numbers shall be required on the sign that is perpendicular to the street with the assigned address.
- e. *Landscaping.* Each sign shall be landscaped with at least six shrubs that are a minimum of 12 inches in height and/or an evenly distributed area of seasonal or perennial flowers with such area being not less than 50 square feet. All qualifying landscaping shall be within seven feet of the sign base.

Ground-mounted sign placement and site landscaping shall be coordinated to the greatest extent possible as part of the site plan and landscape plan review processes. Landscaping proposed around a ground mounted sign shall also be specifically evaluated in terms of ensuring that the copy on a sign face is not obstructed.

- f. *Illumination.* If external illumination is used, such illumination shall be directed only onto the sign face and shall be shielded so that no glare is created. Each individual light fixture shall not exceed 850 lumens per fixture, and
- g. *Sign base and architectural compatibility.* Each primary permanent ground mounted sign, regardless of permitted height and sign face area, shall have a minimum two-foot above grade base below the sign face. The sign base shall be solid with no exposed poles. The base and other elements of the support structure of the sign shall be constructed of material that is compatible with the primary exterior material(s) used on the principal building(s).

(2) *Temporary parcel sign.* Unless provided for otherwise in this chapter, one temporary parcel sign shall be permitted for the development provided the following criteria are met:

- a. Such sign does not exceed 20 square feet in area and six feet in overall height and is placed at least 20 feet from the back of the public street curb or edge of street where curbing is not provided. Temporary parcel signs shall be a minimum of ten millimeters (.39 inches) in thickness and supported by metal t-posts. Banners, pennants, streamers, and similar flexible or wind activated signs shall not be permitted.
- b. A temporary parcel sign shall be permitted for no more than 40 calendar days per year with such time tracked through a temporary sign permitting process. During any period when a parcel is offered for sale or property within the parcel is offered for lease, one additional temporary parcel sign shall be permitted provided it is a minimum of 50 feet from any other ground-mounted sign (temporary or permanent) on the parcel. Such additional sign shall not be subject to the 40-day limitation but shall be subject to all other physical requirements associated with temporary parcel signs and shall be removed within two days of the termination of the event/activity for which the sign was used. Where the termination of an event/activity is questioned by the sign administrator, the burden shall be on the sign holder to verify that the event/activity has not terminated.

(3) *Primary permanent wall mounted sign.* Unless provided for otherwise in this chapter, each principle building shall be permitted one wall mounted sign

which may be installed on any single building elevation subject to the following criteria:

- a. *Sign area.* The sign area, unless provided for otherwise in this chapter, shall be based on the width of the building wall (same horizontal plane) on which the sign is to be mounted with one square foot of sign area being permitted for each one linear foot of building width, as measured from exterior wall edge to exterior wall edge. Such signs shall not exceed 350 square feet, unless provided for otherwise in this chapter.
- b. *Corner lot.* Where a principle building directly faces more than one public street or public access easement that provides access to the property, one wall mounted sign shall be permitted for up to two frontages. One of the permitted signs shall be limited to .75 square feet of sign area for each one (1) linear foot of building wall on which the sign is to be mounted.
- c. *Buildings exceeding 300 linear feet of wall length.* If a building has more than 300 linear feet of wall length, there shall be a maximum of one sign per principal building entrance. Such signs shall be located within the entrance vicinity. One additional sign may be located anywhere on the building wall. All such signs shall be spaced a minimum of 50 feet apart. Each sign shall be calculated separately with the total sign area of all signs combined not exceeding a ratio of one square foot of sign area for each one linear foot of building wall on which the sign is to be mounted. No individual sign shall exceed 350 square feet. Such signage shall be limited to one wall.
- d. *Developments with no paved surfaces in front yard.* If a building has no paved surfaces located in the front yard between the building and the street, one wall mounted sign shall be permitted on the side of the building which fronts upon a public street(s) and one wall mounted sign shall be permitted on the side of the building which faces upon a customer parking area. One of the permitted signs shall be limited to .75 square feet of sign area for each one linear foot of building wall on which the sign is to be mounted. In the case of a corner lot, the owner is permitted a total of two wall mounted signs. The owner may choose between placing the sign on any two of the three qualifying elevations. One of the two permitted signs shall be limited to .75 square feet of sign area for each one linear foot of building wall on which the sign is to be mounted.
- e. *Developments abutting the Interstate.* Within the C-2, Regional Commercial District, one wall mounted sign shall be permitted on the building elevation that faces the interstate, provided such elevation is at least 100 linear feet in length. Such building elevation is permitted one square foot of sign area for each one linear foot of building wall on which the sign is to be mounted not to exceed 350 square feet, and

- f. *Compatibility.* All wall signs shall be architecturally compatible with the principal building and shall be consistent in terms of sign material, general color, mounting style, and illumination with the other signs on the same building.
- (4) *Interior accessory freestanding sign.* For each public street or public access easement that provides direct access to the property, one interior accessory freestanding sign shall be permitted provided the following criteria are met:
- a. Such sign shall not exceed six square feet in sign area and four feet in overall height.
 - b. Such sign shall be at least 60 feet from any property line.
 - c. Such sign shall be at least five feet from any parking lot or accessway curb.
 - d. Such sign shall not create a visibility obstruction, and
 - e. Such sign shall have a base constructed of material that is compatible with the primary exterior material used on the principal building(s).
- (5) *Peripheral accessory freestanding sign.* For each public street or public access easement that provides direct access to the property, one peripheral accessory freestanding sign shall be permitted provided the following criteria are met:
- a. Such sign shall not exceed two square feet in sign area and 30 inches in overall height.
 - b. Such sign shall have a base that is architecturally compatible with the building it is associated with, and
 - c. Such sign shall be at least 15 feet from the back of the public street/access easement curb and at least five feet from any parking lot or accessway curb.
- (6) *Window sign.* On each first-floor building elevation, window signage shall be permitted provided the following criteria are met:
- a. Window signage shall not exceed 25% of the total window area of a building elevation or 20 square feet (as measured by the cumulative total of all window signs on the same building elevation), whichever is less, and
 - b. Up to six square feet of window signage may be internally illuminated but shall not have any moving, blinking, or flashing message.
- (7) *Freestanding building frontage sign.* Along one building elevation, one non-illuminated freestanding building frontage sign shall be permitted, provided the following criteria are met:

- a. Such sign shall be placed within 10 feet of the building.
 - b. Such sign shall not obstruct pedestrian facilities.
 - c. Such sign shall not interfere with or cause the removal of landscaping.
 - d. Such sign shall not exceed six square feet in sign area and four feet in overall height.
 - e. Such sign shall only be readable by pedestrians at the building frontage of the development.
 - f. Such sign shall be removed during non-business hours, and
 - g. Such sign shall be of a solid (non-flexible) material, such as a sandwich board sign. Banners, pennants, streamers and similar flexible or wind activated signs shall not be permitted.
- (8) *Interstate/interchange pole sign.* Establishments located within the C-2 Regional Commercial District shall be permitted one internally illuminated interchange pole sign, subject to the following criteria:
- a. The existing lot of record (at the time of this ordinance adoption) for the establishment shall be located within 250 feet of the right of way of the Campbell Station Road/I40 Interchange.
 - b. Such sign shall not exceed 400 square feet.
 - c. Such sign shall be set back a minimum of 20 feet from the front property line and ten feet from the side and rear property lines.
 - d. Such sign shall have a maximum of two sides provided both sides cannot be seen simultaneously from any point, and
 - e. The maximum height for such sign relative to mean sea level shall be 1,030 feet or 60 feet above the centerline elevation of the interstate road at the point nearest the sign, whichever is less. A certified survey which verifies the sign height shall be submitted to the sign administrator within ten days after the sign is installed.
- (9) *Athletic fields.* Athletic field signage on non-government property shall not be visible from public rights of ways and adjacent properties.
- (10) *Flag.* Two flags shall be permitted on one freestanding flagpole per 400 feet of property frontage on a public street. Such flags shall not individually exceed 25 square feet in size and 25 feet in mounted height. Flag poles shall meet the setback requirements for principal buildings in the corresponding zoning district.

In lieu of a freestanding flagpole, one building mounted flagpole shall be permitted on the principal building provided the pole does not exceed six feet in length and the flag does not exceed 15 square feet.

(d) *Signs permitted on land for multiple use buildings or multiple building complexes for commercial purposes, offices, or government facilities.* The following signs are permitted on land used for multiple use buildings (including schools and churches with multiple buildings) used for commercial purposes, offices, or government facilities or land used for multiple building complexes used for commercial purposes, offices, or government facilities:

(1) *Primary permanent ground mounted sign.* Unless provided for otherwise in this chapter, one primary permanent ground mounted sign is permitted provided the following criteria are met:

a. *Sign area and setback determination.* The sign area is based on its setback from the front property line. Signs with only one entity represented on the sign face shall be subject to the provisions for primary permanent ground mounted signs that govern freestanding establishments in Section 109-12 (c)(1).

- i. Where a building has more than one tenant and more than one entity represented on the sign face, the minimum setback from a front property line is ten feet with the maximum permitted sign face area being 20 square feet. Beyond this minimum, for each additional one foot the sign is set back from the ten foot minimum setback, the sign face area may be increased by four square feet up to a maximum permitted sign face area of 60 square feet at the 20 foot setback from the front property line.
- ii. In order to enhance the legibility of tenant panels in larger multiple tenant developments, an owner with a development that fronts the same public street for at least 400 feet and contains at least ten tenants may substitute the above provided 60 square foot sign with two smaller signs along this 400 feet of street frontage. Each smaller sign shall not exceed 40 square feet and shall be at least 150 feet apart, as measured from a straight line connecting the closest points of each sign structure. Such signs shall be set back a minimum of 15 feet from the front property line. This sign option shall be permitted for each 60 square foot sign that would otherwise qualify for the property based on its public street frontage.
- iii. In addition to the setback from the front property line, all primary permanent ground-mounted signs and the structures on which they are mounted shall be placed outside of any platted easements and set back at least ten feet from any side or rear property line.
- iv. An applicant may use the allocated sign face area to distribute tenant listings in any manner desired, provided the sign administrator and the

Visual Resources Review Board approve the arrangement in terms of its legibility, compatibility, and general appearance.

- b. *Corner lot.* If a property accesses two different public streets, a primary permanent ground mounted sign shall be permitted for each street provided the signs are at least 150 feet apart, as measured from a straight line connecting the closest points of each sign structure. Each sign shall face, in a perpendicular manner, the nearest public street from which the access is provided.
- c. *Signs on same frontage.* If a property fronts the same public street for at least 400 feet, a second primary permanent ground-mounted sign shall be permitted along such frontage, provided the structure of such sign is at least 350 feet from the structure of the other sign permitted along the same frontage.
 - i. Should a development qualify, as provided for in Subsection a. ii., above, for two smaller primary permanent ground-mounted signs in lieu of one larger 60 square foot primary permanent ground-mounted sign, each 400 feet of public street frontage may have two smaller signs, provided these smaller signs are at least 150 feet apart. Should an owner with the qualifying frontage mix a 60 square foot sign with two smaller 40 square foot signs, the sign nearest the 60 square foot sign shall be at least 350 feet from such sign.
- d. *Height Determination.* Permitted sign height is based on the setback from the front property line. Unless otherwise provided for in Section 109-11. (4), where the sign is set back the minimum of ten feet from the front property line, the maximum permitted height shall be six feet. Beyond this point, a sign with more than one tenant shall be permitted two inches of increased allowable sign height for each additional one foot of setback from the front property line up to a maximum of 7.66 feet (92 inches) in overall height (exclusive of addressing) at a 20-foot setback from the front property line.
- e. *Addressing.* An additional 18 inches of overall sign height is permitted to enclose or otherwise provide for address numbers. Address numbers shall be at the top of the sign and shall be eight inches in number height. Where a property abuts two public streets and has a sign facing each street, the address numbers shall be required on the sign that is perpendicular to the street with the assigned address.
- f. *Landscaping.* Each sign shall be landscaped with at least six shrubs that are a minimum of 12 inches in height and/or an evenly distributed area of seasonal or perennial flowers with such area being not less than 50 square feet. All qualifying landscaping shall be within seven feet of the sign base. The placement of landscaping should be evaluated as part of the sign permit

review process to ensure that selected landscaping will not block the sign message.

- g. *Illumination.* If external illumination is used, such illumination shall be directed only onto the sign face and shall be shielded so that no glare is created. Each individual light fixture shall not exceed 850 lumens per fixture.
- h. *Sign base and architectural compatibility.* Each primary permanent ground mounted sign, regardless of permitted height and sign face area, shall have a minimum two-foot above grade base below the sign face. The sign base shall be solid with no exposed poles. The base and other elements of the support structure of the sign shall be constructed of material that is compatible with the primary exterior material(s) used on the principal building(s), and
- i. *Legibility.* All written and numerical information included on a multiple tenant permanent ground mounted sign shall be legible for a person driving the posted speed limit on the corresponding street. Individual letters or figures used within a logo or emblem are not required to be legible. However, the logo or emblem, as a whole, must be legible. The background color shall be consistent on all tenant panels so that the sign in its entirety has a general cohesion and no single tenant panel appears out of place.

(2) *Temporary parcel sign.* Unless provided for otherwise in this chapter, each tenant is permitted one temporary parcel sign provided the following criteria are met:

- a. Such sign does not exceed 20 square feet in area and six feet in overall height and is placed at least 20 feet from the back of the public street curb or edge of street where curbing is not provided. Temporary parcel signs shall be a minimum of ten millimeters (.39 inches) in thickness and supported by metal t-posts. Banners, pennants, streamers, and similar flexible or wind activated signs shall not be permitted.
- b. A temporary parcel sign shall be permitted for no more than 40 calendar days per year with such time tracked through a temporary sign permitting process. During any period when a parcel is offered for sale or property within the parcel is offered for lease, one additional temporary parcel sign shall be permitted for the entire development (not each tenant) provided it is a minimum of 50 feet from any other ground mounted sign (temporary or permanent) on the parcel. Window signage may be used for individual tenant spaces for lease. Such additional sign shall not be subject to the 40-day limitation but shall be subject to all other physical requirements associated with temporary parcel signs and shall be removed within two days of the termination of the event/activity for which the sign was used. Where the termination of an event/activity is questioned by the sign

administrator, the burden shall be on the sign holder to verify that the event/activity has not terminated.

- (3) *Primary permanent wall mounted sign.* Unless provided for otherwise in this chapter, each separate use within a building which has its own separate and exclusive exterior public entrance to the building shall be permitted one wall mounted sign provided the following criteria are met:
- a. *Sign area.* The sign area shall be based on the width of the tenant space on the exterior building wall (same horizontal plane) on which the sign is to be mounted with one square foot of sign area being permitted for each one linear foot of tenant space width as measured from the centers of the exterior wall where the tenant separations occur. If a tenant is on the end of the building, the recognized tenant space would terminate at the end of the building. Such signs shall not exceed 350 square feet, unless provided for otherwise in this chapter. Such wall mounted sign shall be limited to the side of a building which fronts upon a public street/public access easement, faces upon a customer parking area, faces upon a pedestrian mall, or is the point of the principal public access into the establishment.
 - b. *Corner lot.* Where a tenant directly faces more than one public street or public access easement that provides access to the property, one wall mounted sign shall be permitted for up to two frontages. One of the permitted signs shall be limited to .75 square feet of sign area for each one linear foot of building wall on which the sign is to be mounted.
 - c. *Tenant space exceeding 300 linear feet.* If an individual tenant has more than 300 linear feet of building wall of lease space, there shall be a maximum of one sign per principal building entrance. Such signs shall be located within the entrance vicinity. One additional sign may be located anywhere on the building wall. All such signs shall be spaced a minimum of 50 feet apart. Each sign shall be calculated separately with the total sign area of all signs combined not exceeding a ratio of one square foot of sign area for each one linear foot of building wall on which the sign is to be mounted. No individual sign shall exceed 350 square feet. Such signage shall be limited to one wall.
 - d. *Development with no paved surfaces in front yard.* If a building has no paved surfaces located in the front yard between the building and the street, an individual tenant space which is located in the building and fronts upon a public street and faces upon a customer parking area shall be permitted one wall mounted sign on the side of the building which fronts upon a public street(s) and one wall mounted sign on the side of the building which faces upon a customer parking area. One of the permitted signs shall be limited to .75 square feet of sign area for each one linear foot of building wall on which the sign is to be mounted.

- In the case of a corner lot, the owner is permitted a total of two wall mounted signs. The owner may choose between placing the sign on any two of the three qualifying elevations. One of the two permitted signs shall be limited to .75 square feet of sign area for each one linear foot of building wall on which the sign is to be mounted.
- e. *Shared entrance building.* With the exception of the O-1-3 and O-1-5 Zoning Districts, a building with multiple uses that all share the public exterior entrances into the building shall be allowed to distribute wall mounted signage from an overall square footage determined by applying one square foot of sign area for each linear foot of building wall on which the sign(s) is(are) to be mounted. Such signs may be calculated separately provided the cumulative total square footage of all signs does not exceed the overall square footage permitted. Such signs shall be limited to the side of the building which fronts a public street or faces upon a customer parking area and shall be compatible in terms of sign material, general color, mounting style, and illumination;
 - f. *Pedestrian mall.* In the case where a building has a pedestrian mall, the property owner may opt for a different wall signage alternative. When a wall has a pedestrian mall access, each separate use which faces upon such wall shall be permitted one wall sign not to exceed 25 square feet. In addition, each separate use which faces upon the pedestrian mall shall be permitted one wall sign not to exceed 25 square feet with the total signage for mall uses not to exceed 100 square feet. In no case shall a use have more than one sign. Such signs shall be placed on the wall that has the pedestrian mall access and which fronts upon a public street or faces upon a customer parking area. The maximum sign area allowed on such wall shall be two square feet per linear foot of building wall length;
 - g. *Development abutting the interstate.* Within the C-2, Regional Commercial District, one wall mounted sign shall be permitted on the building elevation that faces the interstate, provided the individual tenant space has at least 100 linear feet of building wall abutting the interstate. Such building elevation is permitted one square foot of sign area for each one linear foot of building wall on which the sign is to be mounted not to exceed 350 square feet; and
 - h. *Compatibility.* Wall mounted signage within a multiple tenant development shall be compatible in terms of sign material, general color, mounting style, and illumination. Where a center has an existing mixture of different types of signs, the property owner shall submit to the sign administrator and the VRRB a plan for ensuring compatibility as individual tenant signs transition. The objective is that over time the center will have wall mounted signs that are compatible with each other.

- (4) *Interior accessory freestanding sign.* For each public street or public access easement that provides direct access to the property, one interior accessory freestanding sign shall be permitted, provided the following criteria are met:
- Such sign shall not exceed 12 square feet in sign area and six feet in overall height.
 - Such sign shall be at least 60 feet from any property line.
 - Such sign shall be at least five feet from any parking lot or accessway curb.
 - Such sign shall not create a visibility obstruction, and
 - Such sign shall have a base constructed of material that is compatible with the primary exterior material used on the principal building(s).
- (5) *Peripheral accessory freestanding sign.* For each public street or public access easement that provides direct access to the property, one peripheral accessory freestanding sign shall be permitted provided the following criteria are met:
- Such sign shall not exceed two square feet in sign area and 30 inches in overall height.
 - Such sign shall have a base that is architecturally compatible with the building it is associated with, and
 - Such sign shall be at least 15 feet from the back of the public street/access easement curb and at least five feet from any parking lot or accessway curb.
- (6) *Window sign.* On each first-floor building elevation, window signage shall be permitted provided the following criteria are met:
- Window signage shall not exceed 25% of the total window area of an individual tenant or 20 square feet (as measured by the cumulative total of all window signs on the same lease space elevation), whichever is less, and
 - Up to six square feet of window signage may be internally illuminated but shall not have any moving, blinking, or flashing message.
- (7) *Freestanding building frontage sign – Mixed-Use Town Center and Mixed-Use Neighborhood.* Due to its emphasis on the pedestrian, within the Mixed-Use Town Center and Mixed-Use Neighborhood land use areas, each tenant within a multiple tenant development shall be permitted one non-illuminated freestanding building frontage pedestrian-oriented sign, provided the following criteria are met:
- Such sign shall be placed within ten feet of the building.
 - Such sign shall not obstruct pedestrian facilities.

- c. Such sign shall not interfere with or cause the removal of landscaping.
- d. Such sign shall not exceed six square feet in sign area and four feet in overall height.
- e. Such sign shall only be readable by pedestrians at the multiple tenant development.
- f. Such sign shall be removed during non-business hours, and
- g. Such sign shall be of a solid (non-flexible) material, such as a sandwich board sign. Banners, pennants, streamers and similar flexible or wind activated signs shall not be permitted.

- (8) *Projecting sign – Mixed-Use Town Center and Mixed-Use Neighborhood.* Due to its emphasis on the pedestrian, within the Mixed-Use Town Center and Mixed-Use Neighborhood land use areas, an individual tenant may be permitted one non-illuminated projecting sign near the principal entrance not to exceed four square feet in size. Such sign shall comply with adopted building code clearance requirements and shall be hung perpendicular to the building.
- (9) *Under canopy sign.* When the roof of a building is extended as a canopy over the public entrances in the building, one non-illuminated sign per principal entrance shall be permitted. Such signs shall not exceed four square feet in size, shall comply with adopted building code clearance requirements, and shall be hung perpendicular to the building.
- (10) *Athletic fields.* Athletic field signage on non-government property shall not be visible from public rights of ways and adjacent properties.
- (11) *Flag.* Two flags shall be permitted on one freestanding flagpole per 400 feet of property frontage on a public street. Such flags shall not individually exceed 25 square feet in size and 25 feet in mounted height. Flag poles shall meet the setback requirements for principal buildings in the corresponding zoning district.

In lieu of a freestanding flagpole, one building mounted flagpole shall be permitted on the principal building provided the pole does not exceed six feet in length and the flag does not exceed 15 square feet.

- (e) *Wall signs in the Office District, Three Stories (O-1-3) and Office District, Five Stories (O-1-5); shared entrance building.*
- (1) A building with multiple uses that all share the public exterior entrances into the building and that has more than 225 feet of building wall facing a public street shall be permitted four wall signs. Each sign shall be roughly proportional in size and general appearance. Such signs may be calculated separately provided the cumulative total square footage of all four signs shall

not exceed one square foot of sign area for each linear foot of building wall which faces a public street. The cumulative square footage of all four wall signs shall not exceed 350 square feet. Such wall signs shall be limited to two on the side of a building which fronts upon a public street and shall be a minimum of 50 feet apart. Building elevations that do not face a public street shall be limited to one wall sign per elevation and shall be centered on said elevation, and

- (2) All such wall signs shall be architecturally compatible with the principal structure and shall be consistent in terms of style, color, and illumination with the other signs in the complex. All wall signage shall be limited to two colors on all building elevations.

(f) *Signs permitted on land for banks and other lending institutions.* In addition to the applicable regulations above, the following additional signs are permitted on land used for banks and other lending institutions:

- (1) *Automatic teller machines.* One sign which shall not exceed two square feet in sign area, and which is posted at the machine. One sign, which shall not exceed two square feet in sign area, and which is posted above the drive-thru lane on the overhead canopy, and
- (2) *Drive-thru teller lanes.* One sign which shall not exceed two square feet in sign area, and which is posted at the service window. One sign which shall not exceed two square feet in sign area per drive-thru lane, and which is posted above the lane on the overhead canopy.

(g) *Signs permitted on land for theaters.* In addition to the applicable regulations above, the following additional signs are permitted on land used for theaters:

- (1) *Marquee sign.* A marquee sign shall be limited to the side of the theater building with the principal public entrance. Such sign shall not exceed one square foot of sign area for each linear foot of building wall on which the sign is to be mounted, not to exceed 350 square feet, and
- (2) *Poster case signs.* One poster case sign is permitted per movie screen or stage, which shall each not exceed 16 square feet in sign area, including frames. Illumination shall be in such a manner as to light the poster for readability only. Poster case signs shall be used in lieu of any temporary window signs. Such signs shall be mounted on the building wall with the principal public entrance.

(h) *Signs permitted on land for other businesses with drive-thru windows.* In addition to the applicable regulations above, the following additional signs are permitted on land used for other businesses with drive-thru windows:

- (1) *Wall signs.* One sign per drive-thru lane which shall not exceed two square feet in sign area, and which shall be posted at the ordering point. One sign per drive-thru lane which shall not to exceed two square feet in sign area, and which shall be posted at the pick-up point, and

(2) *Canopy signs.* One sign per drive-thru lane which shall not exceed two square feet in sign area, and which shall be posted above the lane on the overhead canopy.

- (i) *Signs permitted on land for restaurants with drive-thru windows.* In addition to the applicable regulations above, the following additional signs are permitted on land used for restaurants with drive-thru windows:

Menu board signs (outside of the Mixed-Use Town Center land use area):

(1) *Generally.* One sign per drive-thru lane which shall not exceed 30 square feet in sign area and six feet in overall height, and

(2) *Order box signs.* One sign per drive-thru lane which shall not exceed one square foot in sign area and 30 inches in overall height.

- (j) *Signs permitted for gasoline stations/convenience stores.* For the purposes of this chapter, gasoline service stations/convenience stores shall be considered single-use non-residential and such sign regulations shall apply. If such establishments also have a restaurant with a drive-thru window, such drive-thru window sign regulations shall apply. In addition to these signs, the following additional signs are permitted:

(1) *Canopy signs.* Two signs which shall each not exceed nine square feet in sign area, and which shall be posted on two different sides of the canopy over the gas pumps.

(2) *Gas pump signs.* Any number of signs calculated separately, and which shall not exceed a cumulative sign area of eight square feet per side of each gas pump island. Only one sign permit shall be required for all the gas pump islands on the site.

(3) *Car wash signs.* In addition to the wall signs permitted elsewhere in this chapter, one additional wall sign shall be permitted on the wall of the vehicle entrance at a car wash. Such wall sign shall be permitted one square foot of sign area for each linear foot of building wall on which the sign is to be mounted, and

(4) *Car wash order box signs.* One sign per car wash entrance which shall not exceed one square foot in sign area and 30 inches in overall height.

- (k) *Signs permitted on land for large medical campuses on tracts of land ten acres or larger.* For the purposes of this chapter, large medical campuses shall be considered multiple use/multiple building complexes. In addition to the applicable regulations provided for in association with multiple use/multiple building complexes, the following additional signs are permitted on land used for large medical campuses located on tracts of land larger than ten acres:

(1) *Parking lot directory signs.* Parking lot directory signs shall be located at key decision-making locations within the parking lot in relation to building entrances. The physical layout of the campus shall determine the total number

of signs needed. Such signs are not intended to be legible from adjacent streets and shall meet the following criteria:

- a. Such signs shall be set back a minimum of 35 feet from side and rear property lines, 60 feet from front property lines, and five feet from the edge of driveway pavement.
- b. The entire sign structure shall not exceed 30 square feet, the sign area of such signs shall not exceed 12 square feet, and the sign shall not exceed six feet in overall height.
- c. At a single key decision making location within the parking lot, if one parking lot directory sign is not large enough to accommodate the essential directional information, two such signs may be placed side by side.
- d. The letters and numbers on the signs shall not exceed five inches in height with each tenant/occupant listing to be limited to the same color, size, and shape, and
- e. Such signs shall be architecturally compatible with the principal building.

(2) *Wall signs.*

With the exception of individual medical offices, each separate principal medical use within a building shall be allowed one wall sign. Such wall signs shall be limited to the side of a building which fronts upon a public street or faces upon a customer parking area. The permitted sign area shall be as provided for in this chapter.

Due to its unique safety related characteristics, an emergency room shall be allowed one wall sign for each building wall approach to the emergency room portion of the building. The permitted sign area shall be as provided for in this chapter.

SECTION 2.

This ordinance shall take effect from and after its final passage and publication, the public welfare requiring it.

Ron Williams, Mayor

Allison Myers, Town Recorder

Certified to the Farragut Board of Mayor and Aldermen this ____ day of _____, 2020, with approval recommended.

Rita Holladay, Chairman

Rose Ann Kile, Secretary

FARRAGUT MUNICIPAL PLANNING COMMISSION

REPORT TO THE FARRAGUT MUNICIPAL PLANNING COMMISSION

PREPARED BY: Mark Shipley, Community Development Director

SUBJECT: Discussion and public hearing on a request to amend the text of the Comprehensive Land Use Plan Update 2012 as it relates to High Density Residential, Medium Density Residential, Low Density Residential, and Very Low-Density Residential land use descriptions (Town of Farragut, Applicant)

INTRODUCTION AND BACKGROUND: At the Planning Commission meeting last month, a training session workshop was conducted to review the key components of the Town's Comprehensive Land Use Plan Update 2012. Staff noted actions that have been taken since 2012 to implement key strategies identified in the Plan.

DISCUSSION: Staff noted during the workshop that amendments have been made over the years, namely to the Future Land Use Map in different portions of the Town. This has been particularly true since the formation of the CLUP Steering Committee which has focused on more intensely addressing certain priority areas.

Though the entire Plan has sections that will need to be re-visited in terms of updating existing language, the most critical text at this time involves some of the residential land use descriptions in Chapter 3. As you know, the original Medium Density Residential land use provided for a wide range of housing types and a density of 6-12 dwelling units per acre. This created too much variation that was particularly an issue when evaluating rezoning requests.

Consequently, the Planning Commission approved a change to the Future Land Use Map to break down this land use into two different types. The Medium Density Residential land use would now include a density of up to 8 dwelling units per acre and a new High-Density Residential land use would provide for a density of up to 12 dwelling units per acre and would be targeted toward more large-scale multi-family residential projects. The Lanesborough and the Overlook Apartment developments were subsequently mapped with this new land use category.

An issue in relation to this change in the Future Land Use Map was that the corresponding text that would describe the Intent, Location, Density, and Character of both the new High-Density Residential land use and the modified Medium Density Residential land use would be needed. At the same time, two other residential land use descriptions, Low Density Residential and Very Low Density Residential, would need to be updated to more accurately reflect the types of residential products and densities likely to occur in Farragut.

RECOMMENDATION: As provided for in Resolution PC-20-03, staff has included a new section of text to be incorporated into the CLUP for the High-Density Residential land use and modified text for the Medium Density Residential, Low Density Residential, and Very Low Density Residential land uses.

Staff will continue to review the entire CLUP document and identify text that should be updated. These amendments will be brought to the Commission at a future date.

RESOLUTION PC-20-03

FARRAGUT MUNICIPAL PLANNING COMMISSION

A RESOLUTION TO APPROVE AMENDMENTS TO THE TEXT OF THE COMPREHENSIVE LAND USE PLAN UPDATE DECEMBER 2012 FOR THE LAND USE DESCRIPTIONS FOR HIGH DENSITY RESIDENTIAL, MEDIUM DENSITY RESIDENTIAL, LOW DENSITY RESIDENTIAL, AND VERY LOW DENSITY RESIDENTIAL

WHEREAS, the Tennessee Code Annotated, Section 13-4-201et seq, provides that the Municipal Planning Commission shall make and adopt a general plan for the physical development of the municipality; and

WHEREAS, the Farragut Municipal Planning Commission has adopted the Comprehensive Land Use Plan Update on December 12, 2012; and

WHEREAS, the Farragut Municipal Planning Commission may periodically amend various aspects of the Comprehensive Land Use Plan Update;

NOW, THEREFORE, BE IT RESOLVED that the Farragut Municipal Planning Commission hereby recommends as part of the approval of Resolution PC-20-03, the text amendments included with this resolution for the High Density Residential, Medium Density Residential, Low Density Residential, and Very Low-Density Residential land uses.

ADOPTED this 19th day of March 2020.

Rita Holladay, Chairman

Rose Ann Kile, Secretary

Land Use Descriptions

5

High density residential

Intent

- Increase diversity of housing choices in Farragut.
- Provide for residential density to support the viability of a Mixed-Use Town Center (MUTC).
- Allow/encourage significant residential density within walking distance of pedestrian oriented non-residential uses.
- Integrated internally and externally both in terms of vehicular and pedestrian connectivity.
- Consists of functional gathering spaces for transitional areas and community engagement.

Location

- Limited to existing locations on the Future Land Use Map and the area within and immediately surrounding the MUTC land use area.
- Abutting or having direct access to major arterial streets.
- Adjacent to non-residential uses.

Density

- Up to 12 dwelling units per acre.

Character

- Multi-family residential.
- Up to 4 stories.
- Footprint of up to 15,000 square feet.



Figure 31: High Density Residential.



Figure 32: High density residential character.

Land Use Descriptions

6 Medium density residential

Intent

- Increase diversity of housing choices in Farragut.
- Allow/encourage **moderate** residential **density** within walking distance of pedestrian-oriented **non-residential** uses.
- **Serve as a transitional land use between high density residential within or immediately abutting the MUTC land use area and low density residential.**
- **Serve as a transitional land use between low density residential and non-residential.**
- **Integrated internally and externally both in terms of vehicular and pedestrian connectivity.**
- **Consists of functional gathering spaces for transitional areas between low density residential and non-residential.**

Location

- Vacant/underdeveloped parcels **abutting or having direct access to collector or arterial streets.**
- **Areas within or immediately surrounding the Mixed-Use Neighborhood (MUN) land use.**
- **Vacant/underdeveloped parcels between low density residential and either non-residential or high density residential within or immediately abutting the MUTC.**

Density

- **Up to 8 dwelling** units per acre.

Character

- **Attached single-family residential.**
- **Up to 2½ stories.**

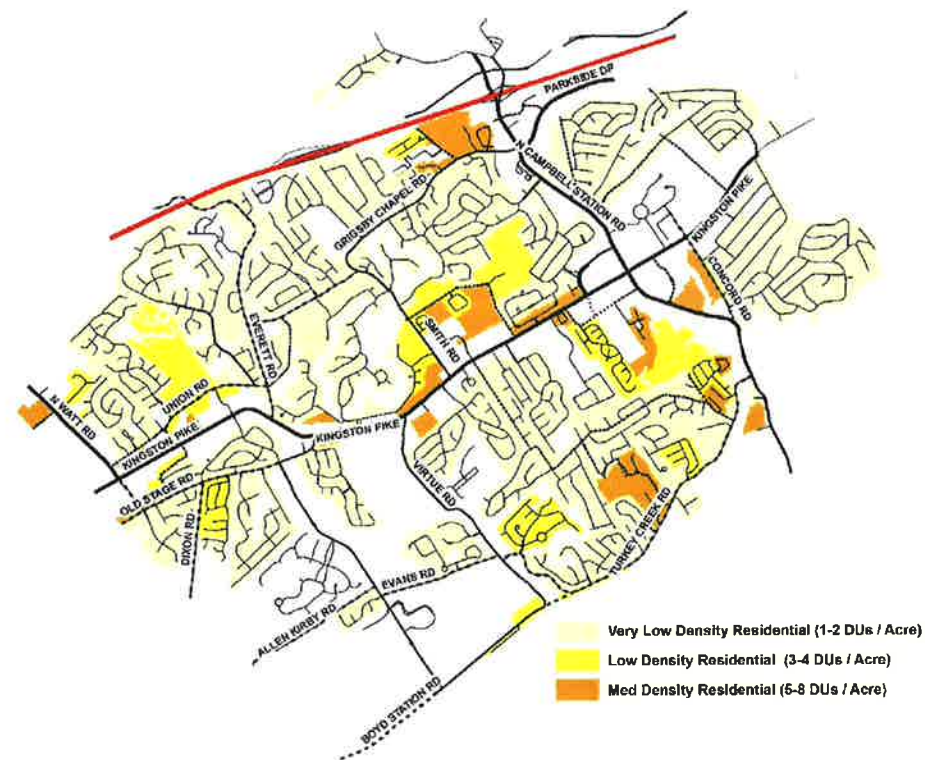


Figure 33: Residential land uses (Medium density, Low density, and Very low density residential).

Residential land uses

residential land uses are intended to increase housing option while preserving the town's existing stable neighborhoods. (See [Chapter 2: Eight Key Strategies](#), Strategy 3: Allowing/Encouraging Greater Housing Choice.)



Figure 34: Medium density residential character.

Land Use Descriptions

7 Low density residential

Intent

- Increase diversity of housing choices in Farragut.
- Serve as a transitional land use between medium density residential and very low density residential.
- Provide for small lot housing developments and infill options.

Location

- Abutting primarily local and collector streets.
- Vacant/underdeveloped parcels between very low density residential and medium density residential or low intensity non-residential.

Density

- Up to 4 dwelling units per acre.

Character

- Primarily small lot detached housing.
- Up to 2½ stories.
- Integrated internally and externally both in terms of vehicular and pedestrian connectivity.
- Dwellings encouraged to be moved closer to the street with rear access.



Figure 35: Low density residential character.

8 Very low density residential

Intent

- Protect existing very low-density subdivisions by allowing/encouraging adjacent and infill developments that are compatible.
- Foster on-going development of the predominant Farragut housing type.

Location

- Parcels situated between large lot residential and low density residential.
- Served by local roads, buffered from major roadways.

Density

- Up to 2 dwelling units per acre and up to 2½ stories.

Character

- Traditional single-family detached housing (less than one acre).
- Mix of lot sizes.
- Integrated internally and externally both in terms of vehicular and pedestrian connectivity.



Figure 36: Very low-density residential character.

Existing

Land Use Descriptions

5 Medium density residential

Intent

- Increase diversity of housing choices in Farragut
- Allow/encourage significant residential uses within walking distance of pedestrian-oriented commercial uses such as hubs or mixed use neighborhoods.

Location

- Vacant/underdeveloped parcels near major roadways.
- Areas with a similar existing density (built or zoned).
- Adjacent to non-residential uses.
- Proximate to mixed use.
- Near large parks.

Density

- 6-12 units per acre.

Character

- A mix of attached and detached housing types. May include single-family houses as well as small multi-family dwellings such as duplex, triplex, townhomes, and small condo/apartment buildings.

- Ample pedestrian amenities such as parks, trails, or landscaping.
- Connect to existing or potential pedestrian ways.
- 'Gridded' or semi-gridded street network.

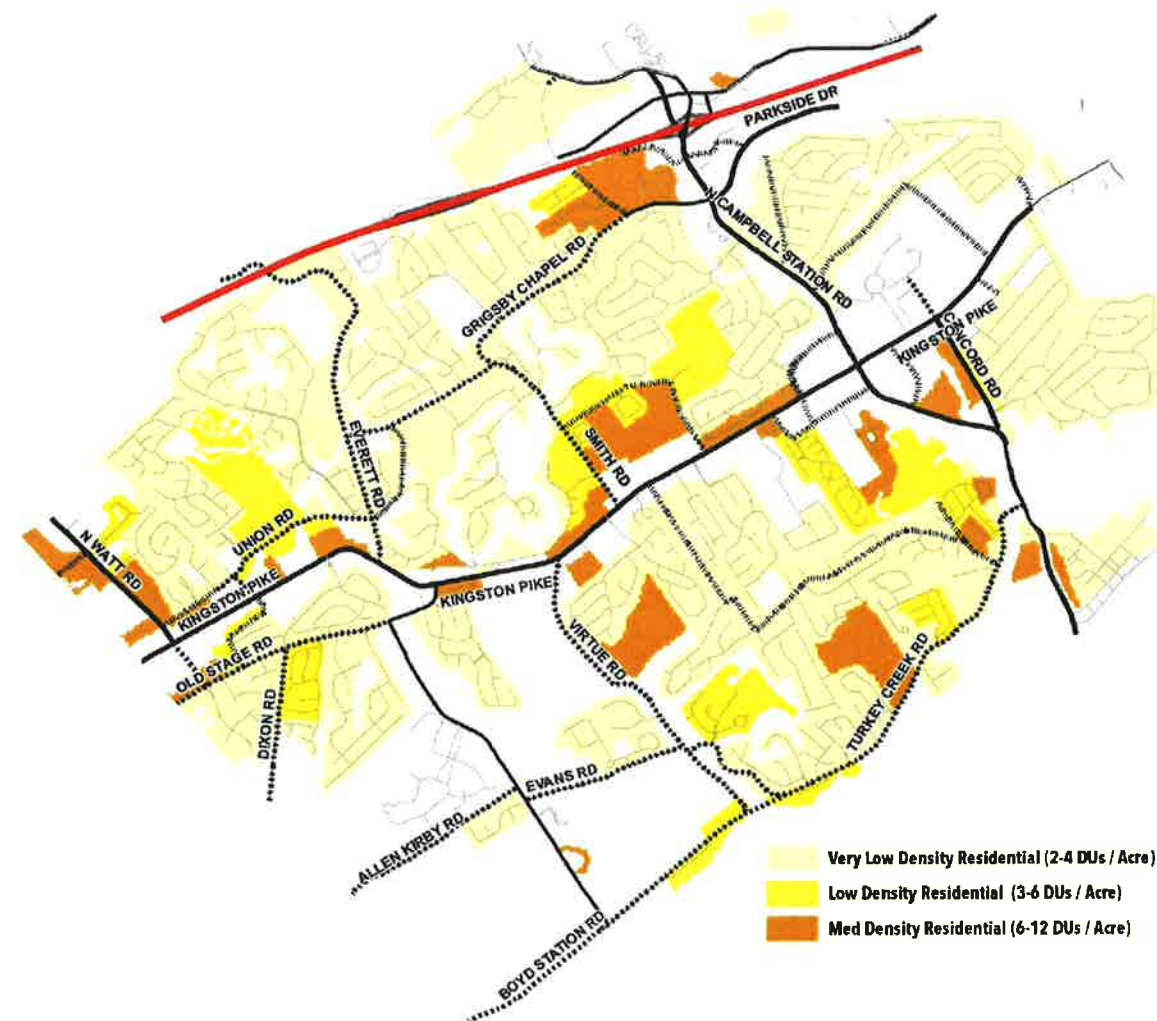


Figure 31: Residential land uses (Medium density, Low density, and Very low density residential).

Residential land uses

residential land uses are intended to increase housing option while preserving the town's existing stable neighborhoods. (See [Chapter 2: Eight Key Strategies](#), Strategy 3: Allowing/Encouraging Greater Housing Choice.)



Figure 32: Medium density residential character.

Existing Land Use Descriptions

6 Low density residential

Intent

- Protect existing low and very low density subdivisions and neighborhoods.
- Foster on-going development of the predominant Farragut housing type.

Location

- Served by local streets.

Density

- 3-6 units per acre.

Character

- Single-family detached housing.
- Encourage a mix of lot sizes to add some diversity, avoid “cookie cutter” subdivisions.
- Suburban.



Figure 33: Low density residential character.

7 Very low density residential

Intent

- Protect existing very low density subdivisions by allowing/encouraging adjacent and infill development that is compatible.
- Foster on-going development of the predominant Farragut housing type.

Location

- Stable, very low density subdivisions.
- Served by local roads, buffered from major roadways.

Density

- 2-4 units per acre.

Character

- Primarily single-family, detached housing.
- Mix of lot sizes to avoid “cookie cutter” character and to preserve the existing informal character of most of these neighborhoods.
- Encourage a mix of lot sizes to add diversity, avoid “cookie cutter” subdivisions.



Figure 34: Very low density residential character.

REPORT TO THE FARRAGUT MUNICIPAL PLANNING COMMISSION

PREPARED BY: Bart Hose, Assistant Community Development Director

SUBJECT: Discussion on the development of zoning provisions governing pain management clinics, methadone treatment and similar drug/alcohol treatment clinics or facilities.

INTRODUCTION AND BACKGROUND: In response to community concerns, the staff has been asked to investigate zoning provisions for the regulation of pain management clinics and outpatient (office based) drug treatment clinics. The separation of such uses from areas with concentrations of children is a particular concern.

Pain management clinics and drug treatment clinics are distinctly separate types of facilities and are subject to regulation of the State of Tennessee. Pain management clinics are regulated by the State Department of Health and drug treatment facilities are regulated by the Department of Mental Health and Substance Abuse.

The Town's current zoning ordinance does not specifically define such uses or make any distinction between types of medical facilities. Because of this, pain management clinics and drug treatment clinics would fall within the broader "Medical, dental, and veterinary facilities" use category listed as a permitted use within most of the Town's commercial, business, and office related zoning districts. In addition, there are no additional location or separation requirements applied to these uses under the current zoning ordinance.

DISCUSSION: The staff has reviewed the zoning ordinances of several other communities and identified several trends or approaches to the regulation of pain management and drug rehabilitation clinics. The staff has also identified other potential issues that may need to be considered when crafting potential amendments to the Town's current zoning approach to these uses. The most significant of these being the concept of "exclusionary zoning".

As noted, the staff reviewed the zoning ordinances of Knoxville, Knox County, Franklin, Collierville, and Alcoa (see attached). The results of this review indicated several common approaches to the regulation of pain management clinics and drug treatment clinics.

First, the other jurisdictions specifically define drug treatment clinics and similar uses, and in most cases pain management clinics, separately. This allows them to make land use and location distinctions between these two types of medical facilities/clinics and other medical facilities. The definitions utilized are similar in nature and can be used as a basis for developing similar definitions in the Town's ordinance.

Second, other jurisdictions tend to restrict these uses to a limited number of zones. For instance, the City of Knoxville restricts "Drug Treatment Clinics" to their C-H (Highway Commercial) district as a special use on review, and to their Institutional district as a use by right. This approach, while valid, would need to be carefully evaluated to avoid any potential exclusionary zoning issues (see discussion below).

Third, several of the jurisdictions surveyed also utilized a use on review/conditional use approach to regulating these facilities in at least some zoning districts. This approach also included additional development location standards, including use separation standards. This regulatory approach is again valid but would also need to be evaluated for potential exclusionary zoning issues (see discussion below). A secondary consideration to utilizing use separation standards is that they may inadvertently concentrate the regulated facilities into areas outside of any distance envelope. This may or may not be a desirable outcome, but it should be evaluated when considering the use of distance separation standards.

As noted above, staff's research indicated that the Town should consider the potential exclusionary effects of any district restrictions and use separation standards on pain management and drug treatment facilities. There is case law in Tennessee that calls into question the use of zoning to prohibit a lawful business from locating within a given jurisdiction¹ (see attached). In staff's view, this may include specific zoning standards that, given the Town's geography and the location of its existing zones, would effectively prohibit the types of facilities in question without a demonstrable and compelling public welfare interest. This is ultimately a legal issue and should be reviewed by and discussed with the Town's attorney. A related secondary issue may also involve the American with Disabilities Act and its application to recovering alcoholics and drug addicts. This again, is a legal issue and should be discussed with the Town's attorney.

The development of zoning provisions for pain management and drug treatment facilities was discussed at a March 12th Board of Mayor and Alderman workshop. The Board was presented with information regarding the issue, including possible zoning definitions and minimum locational requirements (see attached). Also included were several maps illustrating the effects of separation requirements from select uses in the Town (see attached). The staff will update the Commission regarding this workshop at its regular meeting.

¹ An Overview of Land Use Law in Tennessee, Sam Edwards and George Dean, P 62-65, 2017, Sponsored by the Tennessee Municipal League.

An Overview of Land Use Law in Tennessee

Presented by

Sam Edwards
George Dean

Sponsored by the Tennessee Municipal League

D. Exclusionary Zoning

Summary

As a matter of federal (and likely state) law, intentional exclusionary zoning to keep out particular residents is unconstitutional. As a matter of state law, express exclusionary zoning to prohibit lawful businesses within the geographical jurisdiction of a local government is also unlawful. On the other hand, de facto exclusionary zoning in the context of commercial or industrial activities is much more difficult to prove.

Discussion

Let's start with express exclusionary zoning in the commercial/industrial sense. Here in Tennessee, we have a clear precedent invalidating a local zoning ordinance which excluded landfills.

We have reviewed Tenn.Code Ann. § 13–7–101, et seq. (the enabling act) and are convinced that nothing in the enabling act authorizes a county to totally exclude a lawful business from the county. A total prohibition would not be unlawful if it can be shown that the business is one which is particularly objectionable and undesirable and the prohibition appears prima facie to be designed to protect the public interest. That is not the case here.

The general validity and reasonableness of an ordinance is presumed. ***However, once the total exclusion of a legitimate business is shown, the presumption is overcome. The burden then shifts to the zoning authority to establish that total exclusion is for the "purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the state and [Robertson County]."*** Tenn.Code Ann. § 13–7–103. We find nothing in the record before us to show that the health, safety, morals, etc. will be promoted by totally excluding sanitary landfills from Robertson County.

Robertson County v. Browning-Ferris Industries, 799 S.W.2d 662, 666 (Tenn. Ct. App. 1990). Thus, under the BFI doctrine, the burden of proof shifts to the local government to prove that the zoning regulation is reasonable. While this does not seem too onerous or oppressive a burden, demonstrating why such a business should be totally excluded under any and all circumstances is in practice a fairly high burden of proof.

Also note that since this case involves a County, there remains the question of whether a similar legal doctrine applies to a municipal government. Particularly where the municipality is of fairly small geographical size, it may be that not all lawful businesses must be accommodated in every city or town. In particular, large operations such as landfills, quarries, perhaps even big-box stores, maybe excludable simply on the basis of a lack of resources to support the land use. Such exclusions however should be done only with the greatest of care.

On the other hand, if the alleged exclusion results from the impact of particular provisions of the zoning regulations, and not an express prohibition or failure to provide for the use in the zoning regulations, the burden shifting analysis in the BFI case is unwarranted and proving exclusionary zoning becomes much more difficult. Consolidated Waste Systems LLC v Metro Nashville, 2005 WL 1541860 (Tenn. App. 2005).

There still remains the issue as to whether a local government which attempts to exclude such land uses might be in violation of the federal or state constitutions. Southern Burlington County NAACP v Mt. Laurel, 67 NJ 151 (1975) (this is a residential exclusion, but it articulates the “fair share of the regional

burden” test which might be persuasive here in Tennessee even in the context of commercial/industrial land uses). For example, suppose the local government zones its property in such a way as to exclude any new facilities for religious worship. Further assume that there are only one or two churches in the community at the time of the adoption of the regulations. In reviewing the region in which the local government is located, it appears that approximately 10 more churches would be reasonable given the population of the city. Setting aside the constitutional and statutory protections for religious land uses for a moment, would this be exclusionary? It seems that quite a decent argument could be made to that effect. And certainly the same would be true of most other kinds of land uses.

From the perspective of the landowner however, the BFI doctrine is not entirely helpful either. The relief in this case was to declare the zoning regulations invalid, but remand to the County legislative body for an amendment. As one might guess, when the matter goes before any local legislative body on remand, there is no discussion about zoning the applicant’s property for a landfill. The zoning for such uses would be located as far away as possible from the land owned by the original applicant.

Finally, let’s consider the other major issue that comes up in this area: exclusion of minorities for discriminatory reasons. The most recent interesting case dealing with these issues is *Dews v Sunnyvale*, 109 F. 2d 526 (ND Texas 2000) where a small community located within 15 miles of downtown Dallas which band apartments and required a 1 acre minimum for residential development. After a

lengthy trial and in a lengthy opinion, the District Court found overwhelming evidence that the town utilized these methods to “keep out what it termed an undesirable element.” The proof was rife with this type of outright discriminatory comments, and the court invalidated the zoning based on the Fair Housing Act and the 14th amendment to the federal Constitution.

E. Intergovernmental Immunity

Summary:

As a general rule, federal, state, and local governments are immune from local zoning regulations.

Discussion

The Tennessee courts have addressed this issue of governmental immunity from local zoning regulations on a number of occasions. Perhaps the most interesting is *Harpeth Valley Utilities District v Metro Nashville*, 1998 WL 313 397 (Tenn. App. June 12, 1998), where the utilities District, a municipality under Tennessee state law, sought to expand its water treatment plant. Metro Nashville brought suit to enjoin the construction, and on appeal, perhaps the most interesting part is the concurring opinion written by then Judge Koch, who observed: “Unless specifically provided otherwise, a city’s zoning power does not extend to stay government instrumentalities located within its borders.” The same applies to local government activities, as well as to federal government activities.

Pain Management Clinics & Drug Rehabilitation Clinics

Zoning Provision Summary

The following is a brief summary of the zoning approaches taken by select local governments to pain management clinics and drug rehabilitation clinics.

City of Knoxville

The City of Knoxville defines Drug Treatment Clinic differently than Medical/Dental/Office/Clinic.

Drug Treatment Clinic. A facility licensed by the state to administer drugs, such as, but not limited to, methadone or suboxone, in the treatment, maintenance, and/or detoxification of persons.

Medical/Dental Office/Clinic. A facility operated by one or more physicians, dentists, chiropractors, psychiatrists, physiotherapists, or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis. Medical/dental offices/clinics also include alternative medicine clinics, such as acupuncture and holistic therapies, and physical therapy offices for physical rehabilitation. Urgent care facilities, "minute clinics," and medical spas are considered medical/dental offices/clinics.

[Note: the ordinance does not provide a separate definition for "Pain Management Clinic". Given this, and the nature of the use, staff would assume that the use would fall under the general definition of medical clinic.]

The zoning ordinance allows Drug Treatment Clinics in the C-H (Highway Commercial) district as a Special Use and in the Institutional district by right. There are also additional specific Use Standards attached to the use. These include the following:

1. The approval by the Knoxville-Knox County Planning Commission of a drug treatment clinic is contingent upon the receipt of the appropriate license and certificate of need by the Tennessee Health Services and Development Agency.
2. Applicants seeking approval of a drug treatment clinic must provide written documentation that the County Mayor, State Representative, State Senator, and City of Knoxville Mayor have been notified in writing regarding the facility's proposed location, hours of operation, programs and treatments methods offered, and staffing levels and qualifications. This same information must be made available to the Knoxville-Knox County Planning Commission as part of the special use application.
3. The clinic cannot be located within 1,000 feet of an educational facility—primary/secondary, day care facility, pre-school/kindergarten, park, place of worship, residential dwelling, or pharmacy or similar facility that sells or dispenses either prescription drugs or over the counter drugs, as measured from lot line to lot line.
4. The clinic cannot be located within 1,000 feet of any establishment that sells alcoholic beverages for either on- or off-premises consumption, measured from lot line to lot line.
5. The facility must be located on and have access to an arterial street as shown on the City Major Road Plan.
6. In reviewing each application, the Knoxville-Knox County Planning Commission may establish additional requirements or conditions of approval to further reduce the impact such a facility may have on surrounding properties.

The zoning ordinance allows the Medical/Dental/Office/Clinic use category in all the city's commercial districts, with the exception of the C-N (Neighborhood) district, by right. The use is also potentially permitted in the C-N and the industrial I-RD (Research and Development) district as a special use.

The ordinance also provides a process for reviewing "Special Use" requests within applicable zones.

Knox County

Knox County provides separate definitions for Medical, dental, or chiropractic office/clinic, Methadone treatment clinic or facility, and Pain management clinic.

Medical, dental, or chiropractic office/clinic: A facility for the examination and treatment of ill or afflicted human outpatients, provided, however, that the patients are not kept overnight except under emergency conditions.

Methadone treatment clinic or facility: A licensed facility for the counseling of patients and the distribution of methadone for outpatient, nonresidential purposes only.

Pain management clinic (as found in T.C.A. § 63-1-301): A privately-owned facility in which a medical doctor, an osteopathic physician, an advanced practice nurse, and/or a physician assistant provides pain management services to patients, a majority of whom are issued a prescription for, or are dispensed, opioids, benzodiazepine, barbiturates, or carisoprodol, but not including suboxone, for more than ninety (90) days in a twelve (12) month period. A pain management clinic does not include:

1. A medical or dental school, an osteopathic medical school, a nursing school, a physician assistant program or an outpatient clinic associated with any of the foregoing schools or programs;
2. A hospital as defined in T.C.A. § 68-11-201, including any outpatient facility or clinic of a hospital;
3. Hospice services as defined in T.C.A. § 68-11-201;
4. A nursing home as defined in T.C.A. § 68-11-201;
5. A facility maintained or operated by the state government; or
6. A hospital or clinic maintained or operated by the federal government.

The County permits these uses as "Uses Permitted on Review" in the OA (Office Park) and OB (Office, Medical, and Related Services) zones. It also applies Supplementary Development Regulations to these uses (as follows).

Methadone Treatment Clinics or Facilities - Knox County Requirements for the location and development of methadone treatment clinics or facilities as uses permitted on review in the OA, Office Park, and OB, Office, Medical and Related Services, Zones.

Minimum requirements.

- A. The approval by the planning commission of a methadone treatment clinic or facility shall be contingent upon the receipt of the appropriate license and certificate of need by the state department of health.
- B. Applicants seeking approval of a methadone treatment facility shall provide written documentation that the county sheriff's department has been notified in writing regarding the facility's proposed location, hours of operation, programs and treatment methods offered, and staffing levels and qualifications. This same information shall be made available to the planning commission as part of the use-on-review application.

- C. The clinic or facility shall not be located within one thousand (1,000) feet of any school, day care facility, park, church, residential use, pharmacy, or similar facility that sells or dispenses either prescription drugs or over the counter drugs, as measured from property line to property line.
- D. The clinic or facility shall not be located within one thousand (1,000) feet of any establishment that sells alcoholic beverages, for either on- or off-premise consumption, measured from property line to property line.
- E. The facility shall be located on and have access to an arterial street as shown on the Major Road Plan for Knoxville and Knox County, Tennessee.
- F. In reviewing each application, the planning commission may establish additional requirements or conditions of approval to further reduce the impact such a facility may have on surrounding properties.

Pain Management Clinics – Knox County requirements for the location and operation of pain management clinics as uses permitted on review.

Minimum requirements.

- A. Definition. For the purposes of this ordinance, a pain management clinic means a privately-owned facility in compliance with the requirements of T.C.A. §§ 63-1-302—63-1-311 in which a medical doctor, an osteopathic physician, an advanced practice nurse, and/or a physician assistant provides pain management services to patients, a majority of whom are issued a prescription for, or are dispensed, opioids, benzodiazepine, barbiturates, or carisoprodol, but not including suboxone, for more than ninety (90) days in a twelve (12) month period.
- B. This section does not apply to the following facilities as described at T.C.A. § 63-1-302:
 - 1. A medical or dental school, an osteopathic medical school, a physician assistant program or an outpatient clinic associated with any of the foregoing schools or programs;
 - 2. A hospital as defined in T.C.A. § 68-11-201, including any outpatient facility or clinic of a hospital;
 - 3. Hospice services as defined in T.C.A. § 68-11-201;
 - 4. A nursing home as defined in T.C.A. § 68-11-201;
 - 5. A facility maintained or operated by the state; or
 - 6. A hospital or clinic maintained or operated by the federal government.
- C. Certification. Said facility shall maintain in good standing a certificate in compliance with T.C.A. §§ 63-1-306—63-1-309.
- D. Receipts. A pain management clinic, in conformity with T.C.A. § 63-1-310 may accept only a check, credit card or money order in payment for services provided at the clinic, except that a payment may be made in cash for a co-pay, coinsurance or deductible when the remainder of the charge for services is submitted to the patient's insurance plan for reimbursement.
- E. Off-street parking and vehicular operation. Off-street parking shall be provided for the facility at a rate of five (5) spaces per one thousand (1,000) square feet of clinic floor area and the clinic shall assure that all cuing of vehicles takes place on site and not in the public right-of-way.
- F. Location. The clinic shall not be located within one thousand (1,000) feet, as measured from property line to property line, of any school, day care facility, park, church, residential use, pharmacy or similar facility that sells or dispenses either prescription drugs or over the counter drugs; except that the planning commission may reduce this distance upon finding that such reduction of the distance is not detrimental to the health, safety and welfare of the citizens of the area.

- G. Access. The clinic shall be located on property that is adjacent to and has access to an arterial street as shown on the Major Road Plan for Knoxville and Knox County, Tennessee.
- H. In reviewing each application, the planning commission may establish additional requirements or conditions of approval to further reduce the impact such facility may have on surrounding properties.

The ordinance also provides a process for reviewing “Uses Permitted on Review” requests within applicable zones.

City of Franklin

The City of Franklin does not appear to specifically address drug rehabilitation and/or pain clinics in its zoning ordinance. The ordinance contains the following definitions of Clinic and Rehabilitation Center.

Clinic - An establishment providing therapeutic, preventative, or corrective medical treatment or health care services. Activities include health care appointments, medical procedures, surgical procedures, emergency treatment, diagnostic services, walk-in medical services, and other health-related care. Services are provided on an outpatient basis, generally requiring a stay of less than 24 hours.

Rehabilitation Center - A facility that provides formal, organized, services designed to alter specific physical, mental, or social functions of persons under treatment by reducing disability or discomfort. Such facilities also ameliorate the signs or symptoms causing such functions, which may include physical therapy, counseling, vocational, social and/or educational services aimed at restoring the overall well-being, health, and abilities of those being treated, as determined and licensed by the Tennessee Department of Health, Board of Licensing Health Care Facilities. Rehabilitation centers may be stand-alone facilities or be a component of other facilities.

Clinics are permitted by right in the city’s PD Planned District, CI Civic Institutional District, NC Neighborhood Commercial District, CC Central Commercial District, RC6 Regional Commerce 6 District & RC12 Regional Commerce 12 District, GO General Office District, and LI Light Industrial District.

Rehabilitation Centers are permitted by right in the city’s PD Planned District, CI Civic Institutional District.

There does not appear to be any special development standards applied to these uses under the zoning code. They would be reviewed and permitted under the same development standards applied to other permitted uses in the applicable zone.

City of Collierville

The City of Collierville specifically defines several use types that would appear applicable to pain clinics and/or drug rehabilitation clinics.

Clinic. An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologists or social workers and where patients are not usually lodged overnight (also see HOSPITAL).

Health Clinic. A facility or institution, whether public or private, principally engaged in providing services for health maintenance and treatment of mental or physical conditions. (The New Illustrated Book of Development Definitions)

Observation Rehabilitation Center. A facility or institution, whether public or private, principally engaged in providing services for treatment of mental or physical conditions which may or may not include overnight or long-term care accommodations.

Substance Abuse Center. Structures and land used for the treatment of alcohol or other treatment abuse where one or more patients are provided with care, meals, and lodging. (A Glossary of Zoning, Development, and Planning Terms: Jefferson, MO)

Health clinics are permit by right in the MPO: Medical-Professional Office; SCC: Shopping Center Commercial; GC: General Commercial districts.

Medical Clinic – Out Patient is listed as a permitted use by right in the MPO district and as a conditional use in the R-1: Low Density Residential, and TN Traditional Neighborhood District.

Observation Rehabilitation Centers are permitted in the MPO, SCC, and GC districts within approved Planned Developments.

Substance Abuse Center was not listed in the ordinance use table.

The ordinance also provides processes for reviewing “Conditional Use” requests and/or Planned Developments within applicable zones. There were no additional special development standards listed for pain clinics or drug rehabilitation clinics.

City of Alcoa

Alcoa defines both Methadone Treatment Clinic and Pain Management Clinic.

Methadone treatment clinic or facility: A licensed facility for counseling of patients and the distribution of methadone for out-patient, non-residential purposes only. A methadone treatment clinic or facility is not a medical clinic or substance abuse treatment facility, as per the Alcoa Zoning Ordinance.

Pain Management Clinic: A privately-owned facility in which a majority of the facility’s patients, seen by any or all of its medical doctors, osteopathic physicians, advanced practice nurses with certificates of fitness to prescribe, or physician assistants, are provided pain management services by being prescribed or dispensed, opioids, benzodiazepines, barbiturates, or carisoprodol, but not suboxone, for more than ninety (90) days in a twelvemonth period. This definition does not apply to:

- a. A medical or dental school, an osteopathic medical school, a nursing school, a physician assistant program or an outpatient clinic associated with any of the foregoing schools or programs, including, but not limited to, clinics that have an agreement to train residents by members of that clinic who are appointed as adjunct faculty of the school or program;
- b. A hospital as defined in Tennessee Code Annotated 68-11-201, including any out-patient facility or clinic of a hospital if such outpatient facility or clinic is regulated under Title 68;

- c. Hospice services as defined in Tennessee Code Annotated 68-11-201;
- d. A nursing home as defined in Tennessee Code Annotated 68-11-201;
- e. A facility maintained or operated by this state; or
- f. A hospital or clinic maintained or operated by the federal government.

Both types of clinics are permitted as special exceptions in the General Business District "E" zone. The conditions placed on both uses under the special exception review process follow.

Methadone treatment clinic or facility, substance abuse treatment facilities, provided that:

- a. The consideration for approval by the Alcoa Board of Zoning Appeals shall be contingent upon the receipt of the appropriate license and certificate of need by the State of Tennessee;
- b. Maps showing existing land use and zoning within one-quarter (1/4) mile of the proposed site should be submitted with an application for approval, along with the license of the applicant, certificate of need, site plan, survey or other information deemed reasonable by the board of zoning appeals for use in making a thorough evaluation of the proposal;
- c. The clinic or facility shall be located on and have access to a principal arterial street; and,
- d. Measurement shall be made in a straight line on the Alcoa Zoning Map from the nearest property line of the lot on which the methadone/substance abuse treatment clinic or facility is situated to the nearest property line of the following uses:
 - 1. Not less than one-half (1/2) mile from any other methadone/substance abuse treatment clinic or facility;
 - 2. Not less than 1,000 feet from any residentially zoned property at the time of approval;
 - 3. Not within 1,000 feet of any establishment that sells alcoholic beverages for either on or off-premise consumption;
 - 4. Not within 1,000 feet of a school, day care facility, park, church, cemetery or mortuary;
 - 5. Not within 1,000 feet of any amusement catering to family entertainment; and,
 - 6. Not within 1,000 feet of any area devoted to public recreation activity.

Pain management clinics, provided that:

- a. The consideration for approval by the Alcoa Board of Zoning Appeals shall be contingent upon said clinic meeting and maintaining all licensing and permit requirements of the State of Tennessee, as per Tennessee Code 63-1-301, et seq.;
- b. Maps showing existing land use and zoning within one-quarter (1/4) mile of the proposed site should be submitted with an application for approval, along with the license of the applicant and other permit requirements of the State of Tennessee (as per TCA 63-1-301, et seq.), site plan, survey or other information deemed reasonable by the board of zoning appeals for use in making a thorough evaluation of the proposal;
- c. The clinic or facility shall be located on and have access to a principal arterial street;
- d. The clinic or facility abutting a residentially zoned property (or allowed as a special exception) shall be secured from access across such abutting property lines by a fence no less than six (6) feet in height;
- e. Measurement shall be made in a straight line on the Alcoa Zoning Map from the nearest property line of the lot on which the pain management clinic is situated to the nearest property line of the following uses:
 - 1. Not less than one-half (1/2) mile from any other pain management or methadone/substance abuse treatment clinic or facility;

2. Not less than 1,000 feet from any residentially zoned property at the time of approval;
3. Not within 1,000 feet of any establishment that sells alcoholic beverages for either on or off-premise consumption;
4. Not within 1,000 feet of a school, day care facility, park, church, cemetery or mortuary;
5. Not within 1,000 feet of any amusement catering to family entertainment;
6. Not within 1,000 feet of any area devoted to public recreation activity.

BOMA Workshop

March 12, 2020

Pain Management & Drug Treatment Facilities

I. Definitions

Drug treatment clinic or facility: A licensed facility for the counseling of patients and/or the issuing of a prescription for, or dispensing of methadone, suboxone, or similar medications, in the treatment, maintenance, and/or detoxification of persons, for outpatient, non-residential purposes only.

- (Knoxville "Drug Treatment Clinic + Knox County Methadone Clinic)

Pain management clinic: A privately-owned facility in which a medical doctor, an osteopathic physician, an advanced practice nurse, and/or a physician assistant provides pain management services to patients, a majority of whom are issued a prescription for, or are dispensed, opioids, benzodiazepine, barbiturates, or carisoprodol, or similar medications, for more than ninety (90) days in a twelve (12) month period. A pain management clinic does not include:

1. A medical or dental school, an osteopathic medical school, a nursing school, a physician assistant program or an outpatient clinic associated with any of the foregoing schools or programs;
2. A hospital as defined in T.C.A. § 68-11-201, including any outpatient facility or clinic of a hospital;
3. Hospice services as defined in T.C.A. § 68-11-201;
4. A nursing home as defined in T.C.A. § 68-11-201;
5. A facility maintained or operated by the state government; or
6. A hospital or clinic maintained or operated by the federal government.

- (Taken from Knox County, with modification)

II. Minimum Requirements

This section prescribes the conditions under which drug treatment or pain management clinics or facilities may be permitted in the C-1, C-2, C-1-3, O-1, O-1-3, and O-1-5 zoning districts.

- A. The approval by the Town of a pain management or drug treatment clinic or facility shall be contingent upon the receipt of the appropriate license and certificate of need by the State of Tennessee Department of Health or Department of Mental Health and Substance Abuse.
- B. Applicants seeking approval of a pain management or drug treatment clinic or facility shall provide written documentation that the Knox County Sheriff's Department has been notified in writing regarding the facility's proposed location, hours of operation, programs and treatment methods offered, and staffing levels and qualifications.
- C. The clinic or facility shall not be located within one thousand (1,000) feet of any public or private school, day care facility, public library, community center or public park, as measured from property line to property line.
- D. The clinic or facility shall be situated on a parcel that fronts or has direct access to an arterial street as shown on the Farragut Major Road Plan, Tennessee.
- E. Off-street parking shall be provided for the facility at a rate of five (5) spaces per one thousand (1,000) square feet of clinic floor area.

(Taken from Knox County, with modification)



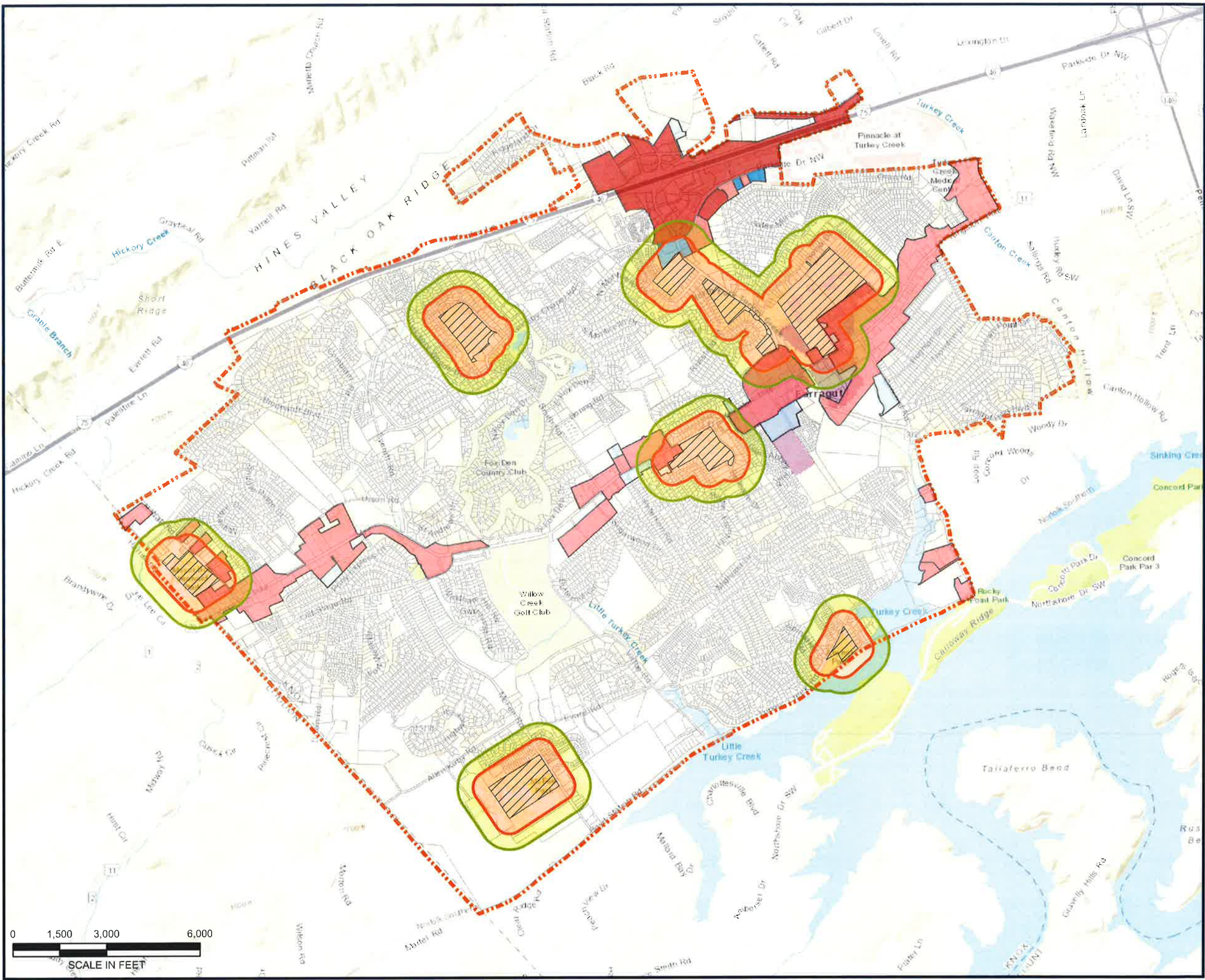
Schools, Parks & Community Center

- Legend**
- Schools, Parks & Community Center
 - 500' Buffer
 - 1,000' Buffer
 - O-1, Office
 - O-1-3, Office, Three Stories
 - C-1, General Commercial
 - C-2, Regional Commercial
 - Mixed Use Town Center (8-15 DUs / Acre)
 - Parcels
 - Town of Farragut Boundary



CONTACTS:
GIS:
Carrie Smith
carrie.smith@aecom.com

1 inch = 3,000 feet
Map Prepared: 3/5/2020





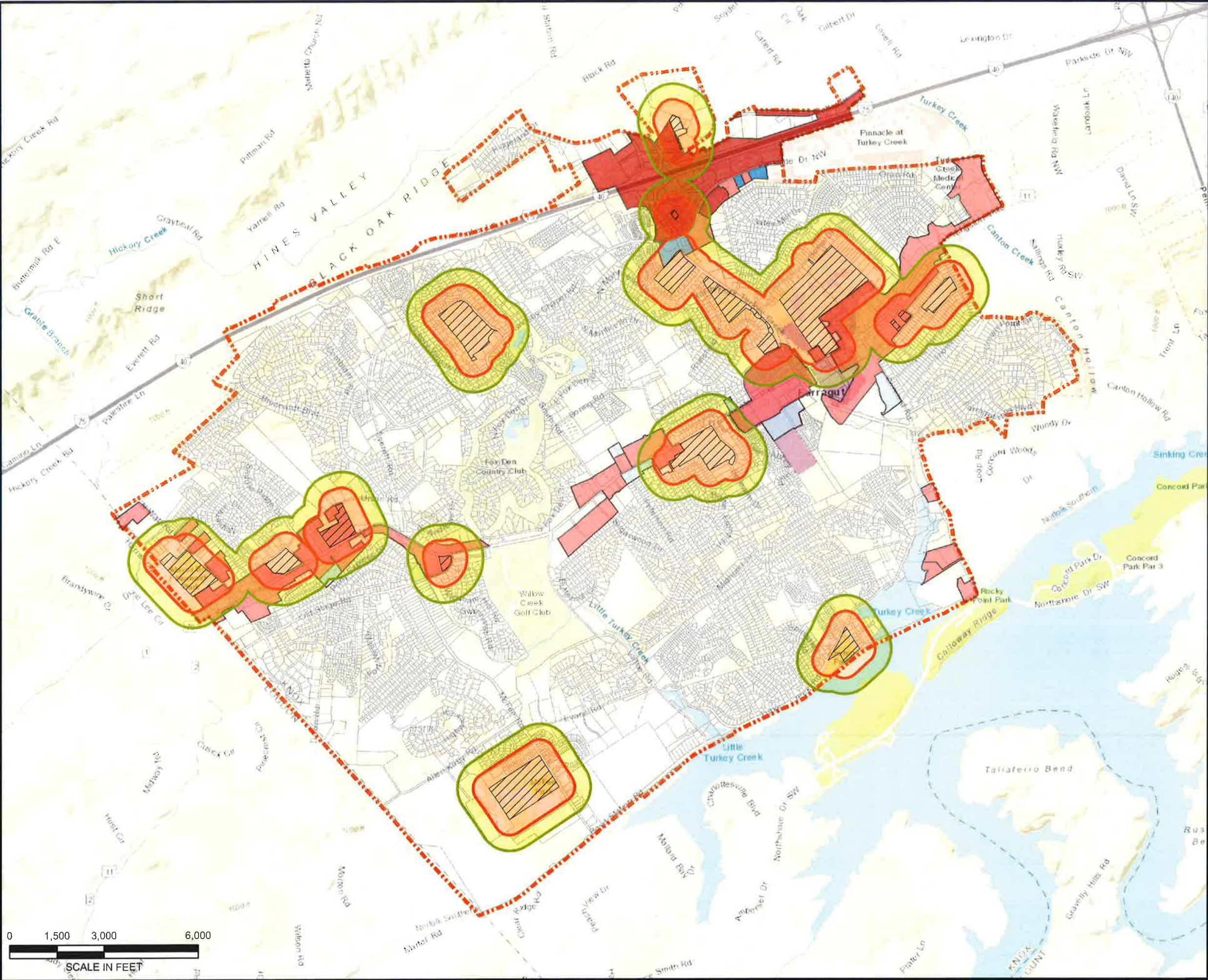
School, Parks and Daycares

- Legend**
- Schools, Daycare, Parks & Community Center
 - 500' Buffer
 - 1,000' Buffer
 - O-1, Office
 - O-1-3, Office, Three Stories
 - C-1, General Commercial
 - C-2, Regional Commercial
 - Mixed Use Town Center (8-15 DUs / Acre)
 - Parcels
 - Town of Farragut Boundary



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1 inch = 3,000 feet
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School, Parks and Daycares

Legend

- Schools, Daycare, Parks & Community Center
- 500' Buffer
- 1,000' Buffer
- A, Agricultural
- Business District Four Story
- B-1, Buffer
- OS-P, Open Space/Park
- S-1, Community Service
- R-1, Rural Single-Family Residential
- R-1-S-A, Rural Single-Family Acre Residential
- R-2, General Single-Family Residential
- R-3, Small Lot Single-Family Residential
- R-4, Attached Single-Family Residential
- R-5, Two-Family Residential
- R-6, Multi-Family Residential
- R-1/OSR, Open Space Residential Overlay
- R-1/OSMR, Open Space Mixed Residential Overlay
- R-6/OSMFR
- Telecommunication Tower Overlay Zone
- O-1, Office
- O-1-3, Office, Three Stories
- O-1-5, Office, Five Stories
- Town Center District
- Neighborhood/Convenience Commercial
- C-1, General Commercial
- C-1-3, General Commercial, Three Stories
- C-2, Regional Commercial
- C-2-R/W, Regional Commercial, Retail/Warehousing
- PCD, Planned Commercial Development
- Parcels
- Town of Farragut Boundary



CONTACTS:

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Map Prepared: 3/5/2020

0 1,500 3,000 6,000
SCALE IN FEET

