

**A G E N D A**  
**JAMES CITY COUNTY BOARD OF SUPERVISORS**  
**REGULAR MEETING**  
**County Government Center Board Room**  
**101 Mounts Bay Road, Williamsburg, VA 23185**  
**January 9, 2018**  
**5:00 PM**

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**A. CALL TO ORDER**

**B. ROLL CALL**

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE**

**E. PUBLIC COMMENT**

**F. PRESENTATIONS**

**G. CONSENT CALENDAR**

1. Minutes Adoption
2. Contract Award for Banking Services
3. Dedication of the Streets in the Cottages at Stone Haven Subdivision
4. Dedication of the Streets in Section 5 of the White Hall Subdivision
5. Olde Towne Medical and Dental Center Addition of Nurse Practitioner/Physician's Assistant

**H. PUBLIC HEARING(S)**

1. Pre-Budget Public Hearing - FY 2019-2020 Biennial Budget
2. SUP-0013-2017, The Kensington School
3. ZO-0002-2017, Zoning Ordinance Revisions to Permit Short-Term Residential Rentals
4. SUP-0011-2017, 3001 Ironbound Road Tourist Home
5. ZO-0001-2017. Amendments to the Zoning Ordinance, Division 3, Floodplain Area Regulations
6. SUP-0028-2016. Solar Electrical Generation Facility at Norge

**I. BOARD CONSIDERATION(S)**

1. Z-0004-2017. Powhatan Terrace Proffer Amendment

**J. BOARD REQUESTS AND DIRECTIVES**

**K. REPORTS OF THE COUNTY ADMINISTRATOR**

**L. CLOSED SESSION**

1. Consideration of a personnel matter, the appointment of individuals to County Boards and/or Commissions pursuant to Section 2.2-3711 (A)(1) of the Code of Virginia and pertaining to the Planning Commission, Thomas Nelson Community College Board, and Social Services Advisory Board

**M. ADJOURNMENT**

1. Adjourn until January 20, 2018 for the Board Retreat

**ITEM SUMMARY**

DATE: 1/9/2018  
TO: The Board of Supervisors  
FROM: Teresa J. Fellows, Deputy Clerk  
SUBJECT: Minutes Adoption

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**ATTACHMENTS:**

	Description	Type
☐	112817BOSwork-mins	Minutes
☐	121217BOS-mins	Minutes

**REVIEWERS:**

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	12/28/2017 - 11:05 AM

**MINUTES**  
**JAMES CITY COUNTY BOARD OF SUPERVISORS**  
**WORK SESSION**  
**County Government Center Board Room**  
**101 Mounts Bay Road, Williamsburg, VA 23185**  
**November 28, 2017**  
**4:00 PM**

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**A. CALL TO ORDER**

Ruth M. Larson, Vice Chairman, Berkeley District  
Michael J. Hipple, Powhatan District  
P. Sue Sadler, Stonehouse District  
John J. McGlennon, Roberts District  
Kevin D. Onizuk, Chairman, Jamestown District

Bryan J. Hill, County Administrator  
Adam R. Kinsman, County Attorney

**B. ROLL CALL**

**C. BOARD DISCUSSIONS**

1. Legislative Priorities Discussion with State Legislators

Mr. Onizuk introduced the Honorable Tommy Norment, Member of the Virginia Senate, the Honorable Montgomery Mason, Member of the Virginia Senate, the Honorable Michael Mullin, Virginia House of Delegates and the Honorable Brenda Pogge, Virginia House of Delegates.

Mr. Kinsman gave an overview of the Legislative Agenda included in the Agenda Packet. He referenced and briefly discussed the following items:

Part I, No. 1-1. INCLUDE JAMES CITY COUNTY AS ONE OF THE LOCALITIES THAT MAY REGULATE INOPERATIVE MOTOR VEHICLES PURSUANT TO VIRGINIA CODE § 15.2-905.

Part I, No. 1-2. AMEND VIRGINIA CODE § 36-105.3 TO CLARIFY THAT EMPLOYEES OF A LOCALITY MAY REVIEW ENGINEERING AND CONSTRUCTION DRAWINGS AND PLANS FOR ANY SINGLE-FAMILY RESIDENTIAL DWELLING.

Mr. Kinsman stated that Part I, No. 1-2 was new this year and stated that at last year's General Assembly there was a change to the Building Code and in Section 36-105.3. He stated that the General Assembly is trying to keep builders' from swiping other builders plans by using the Freedom of Information Act (FOIA) which is fine; however, the statute reads that building drawings and plans shall be confidential and shall not be subject to disclosure under FOIA. He surmised that if not being subject to disclosure under FOIA means it cannot be shown to the public, then confidential must mean something else and it must mean someone in the locality; therefore, we are having a difficult time figuring out who in the locality can view the

plans. He remarked that he feels an easy fix would be to remove the word “confidential,” they are not subject to FOIA, and that keeps builders from coming in and making copies. He stated that otherwise there is no other legislature that we are asking to be introduced on behalf of the County. He referenced and briefly discussed the following items:

Part II, No. 2-16. NO WRONG DOOR VIRGINIA

Part II, No. 2-17. EMERGENCY CONSERVATOR APPOINTMENTS

Part II, No. 2-18. STATE FUNDING FOR MANDATED SERVICES PROVIDED BY COMMUNITY SERVICES BOARDS

Mr. Kinsman stated that Ms. Rebecca Vinroot, Director of Social Services, was present to answer any questions.

Mr. Onizuk stated that Part I, Item 1-1 was carried forward and noted that there had previously been some objections. He asked for a refresher regarding the objections.

Delegate Pogge replied that it appeared to be something that could cost County residents a lot of money. She stated that she objected to the possible effects in rural areas where residents may reside because of the property rights and freedoms. She further stated that her district is comprised of several rural areas and therefore she has received many complaints regarding this issue.

General discussion ensued regarding this item.

Mr. Onizuk asked Mr. Kinsman what types of complaints have been received and what the potential cost would be to a landowner that needed to make corrections.

Mr. Kinsman stated approximately one a year or so and they tend to be from older communities and neighborhoods that are not homeowner association related.

Delegate Pogge stated that the Legislation would cover the rural areas unless it is created to target the neighborhoods of certain acreage or less. She further stated that she objected to the infraction on property rights of residents who have bought for a purpose and then the rules changed.

Mr. McGlennon stated that a lot of neighborhoods in his district are pre-homeowner association requirements and lots are smaller than .25 acres, making it a close proximity to someone who has essentially created a junkyard, detracting from the value of the neighborhood.

Delegate Pogge stated that there may be residents in the rural areas that collect farm vehicles and have the acreage to allow them to remain there; however, the original language of the Bill was going to affect those people as well.

Mr. Onizuk stated that there have been some challenges with enforcement.

Mr. Kinsman replied that it is a “neither/nor” situation, whereas they have neither a valid license plate nor a valid inspection sticker. He gave an example of an inoperable automobile with regular or antique license plates on it that never gets inspected. He explained this would be a situation where we could have problems if they continued putting new stickers on the license plates and stated that we asked to

be added to the list of named localities in 152905. He addressed the issue of restoration of vehicles already in the statute.

Delegate Pogge inquired if there is much flexibility to create your own ordinances once added to the list.

Mr. Kinsman replied that there is limited flexibility and commented that to custom tailor an ordinance under this action, the answer is no.

General discussion ensued regarding this item.

Delegate Pogge referenced:

Part I, Item 1-2. AMEND VIRGINIA CODE § 36-105.3 TO CLARIFY THAT EMPLOYEES OF A LOCALITY MAY REVIEW ENGINEERING AND CONSTRUCTION DRAWINGS AND PLANS FOR ANY SINGLE-FAMILY RESIDENTIAL DWELLING.

Delegate Pogge stated that when this new piece of legislation went through it created unintended consequences about FOIA and confidentiality and inquired if that should be an easy fix without a lot of controversy. She remarked that she would be willing to carry it if there was a draft.

Senator Norment stated that it would surprise him if the legislative intent was to prohibit or restrict staff from reviewing it, remarking that clearly staff has to be able to access it.

Mr. Kinsman stated that with the removal of the four words “shall be confidential and” it would be an easy fix.

Delegate Pogge stated that if Mr. Kinsman would draft the language, she would turn it in to legislative services.

Senator Mason referenced funding and commented that the Chairman of the Senate Finance Committee is present.

Senator Norment discussed funding.

Mr. McGlennon stated that there have been several requests for statewide funding and noted that here in the County and in local governments generally, some of the sources of revenue are experiencing decline. He gave the examples of sales and communication taxes and noted that with rebenchmarking our experience has been that we do not benefit from additional state funding and therefore are looking for more flexibility at the local level to be able to pick up. He further stated we are finding that in transportation, even with good strategy to go in and gain a lot of funding with local dollars, we are now having to spend local dollars in order to compete for regional transportation funding. He commented that all of these things suggest that a lot of the inability to fund at the state level is coming down and hitting us at the same time that our traditional sources of revenue are declining.

Senator Norment stated that the population distribution in Northern Virginia is top heavy and nothing is slowing down and noted that a major push for mass transit needs to be made because of the hundreds of millions of dollars being put into their system. He commented that it is important for proportionality to remember that almost a third of the General Assembly is now from Northern Virginia; therefore, if

they congeal together they are formidable when it comes to transportation dollars. He further stated that in reference to the declining sales tax revenues he had three words “market place equity,” and commented he feels that there will be some shift on the federal level, noting that is something that would be a game changer for everyone.

Mr. McGlennon stated that an area of struggle is Olde Towne Medical and Dental Center, which has experienced a sharp increase in use, with many residents using the services and having no insurance. He further stated the costs of providing services are not being reimbursed and anticipates needing help to cover costs. He noted that the community has been very generous to Olde Towne Medical and Dental Center, but costs need to be addressed, staffing has to be increased and the lack of patient insurance coverage makes it a real challenge. He remarked that the Virginia Peninsula Regional Jail inmates frequently struggle with physical and mental health issues which require expensive services that are not reimbursed beyond a fairly small level. He further remarked that he is hopeful the General Assembly will have a change in view on the ability of localities and counties to have the same kinds of flexibility as cities in making decisions in terms of resources. He commented that over the years the Board has asked for the ability to impose cigarette taxes and believes it is viewed that counties and cities are both dealing with the same kinds of problems and financial stresses and therefore need the same types of flexibility to find resources.

Mr. Onizuk stated that revenues and funds collected from citizens are having to be contributed toward roads and the Virginia Department of Transportation, which hinders the ability to help organizations; whereas, in previous years that was state revenues.

Mr. McGlennon stated that in 2016 the General Assembly decided to impose new legislation that restricted the ability to collect proffers and provided no alternative. He further stated the end result is we cannot afford to approve development requests that require rezonings and have significant impact on our schools, roads, parks and recreation along with everything else. He commented there is going to be a lot of pressure with the new businesses coming to Northern Virginia and other places, but the problem is simply the local governments are saying we cannot afford to do this and noted that Prince William County approved one rezoning last year for six housing units.

Senator Norment replied yes it is tough.

General discussion ensued regarding proffers, rezonings, and physical and mental healthcare costs.

Mr. Hipple inquired about working together as a community team of leaders, with everyone having various responsibilities, and work with limited funds in order to make sure everyone’s needs are covered for our citizens.

Senator Norment replied that depending on how you choose to count 11 jurisdictions, 131 localities, things get complex. He stated that those present in the room may absolutely concur on every issue stated on the papers; however, that does not mean that the group has the ability to execute it in a deliberative legislative body of 140 legislators representing 131 different localities. He further stated that a lot of localities may need to look at more self-initiative, commenting that you still have to go through the General Assembly process. He further commented that trying to do it on a mass scale is more complicated, due to a lot more people involved, and noted

that the parochial interests that we have in the historic triangle are not the same parochial interests that they have out in Bristol, VA, for example. He remarked that this is the point where it gets complex and does not think it is an adversarial relationship.

Delegate Pogge reference an example being school starting dates. She cited examples of some areas having a tourism economy wanting later school start dates; whereas, another area that may be prone to a lot of snow throughout the winter may want schools to start earlier. She stressed that every year the House of Delegates has a battle regarding this issue.

Mr. Hipple stated that he may not have explained himself correctly.

Senator Norment replied yes he did and stated that we could congeal on an issue and be unequivocally behind it; however, that does not mean that at the end of 60 days it is going to come out because it gets into a larger community of interest.

Mr. Hipple stated that he understood that.

Delegate Mason stated that throughout the course of a year the Board can bring them things like, for example, transportation projects. He stressed that he feels there is an open line of communication with the James City County Board of Supervisors bringing awareness to the Board's likes and dislikes and commented that is a good thing to do. He stated that he would like to work on the perception that Southeastern Virginia does not work together as well as Northern Virginia.

Delegate Pogge stated that in 2008 the budget was drastically cut and they are still working on bringing back and restoring the cuts in order to bring everyone to the previous 2007 funding levels; however, they can only do several agencies at a time because the funding still is not there. She further stated that Hampton Roads is underproducing the rest of the state and the whole state of Virginia is underperforming the nation, especially in recouping losses.

General discussion ensued on this topic.

Delegate Pogge stated that she believes one thing that can be done to help is:

Part II, Item 2-13. NO NEW STATE MANDATES AND ELIMINATE OR ADEQUATELY FUND EXISTING STATE MANDATES.

Delegate Pogge stated that she does oppose state mandates that are unfunded.

Mr. Onizuk stated that Mr. Kinsman emailed the Board a copy of the 2016 Catalog of State and Federal Mandates on Local Governments.

Senator Norment referenced the Children's Health Insurance Program (CHIP) and commented that he expects if funding is not renewed it is something the state will have to review.

Mr. McGlennon stated that comes back around to Olde Towne Medical and Dental Center.

Mr. Onizuk stated that as a point of information, there was a brief conversation about proffers and the Board's policy seemed to be questioned. He further stated that in an effort to be clear, our Board policy is "no residential proffers." He



remarked that the Board does not have a policy indicating any leanings on applications in general, considers all applications based on merit and all are weighted accordingly.

Senator Norment stated it was a word of advice.

Mr. Onizuk expressed his appreciation for a very positive working relationship with the State Legislators and all that they do for citizens and the County.

Mr. McGlennon congratulated the representatives for those who had their mandates renewed.

Senator Norment expressed his thanks to the Board for its service. He stated that local government is a challenging but rewarding experience.

The Board went into recess at approximately 5:06 p.m.

The Board reconvened at approximately 5:14 p.m.

#### **D. CLOSED SESSION**

1. Discussion of the resignation of the County Administrator and discussion and consideration of prospective candidates for the position of Interim County Administrator pursuant to Virginia Code 2.2-3711(A)(1) of the Code of Virginia.

A motion to Enter a Closed Session was made by Ruth Larson and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, McGlennon, Larson, Sadler, Onizuk

At approximately 5:15 p.m., the Board entered Closed Session.

At approximately 5:35 p.m., the Board re-entered Open Session.

2. Certification of Closed Session

A motion to Certify the Closed Session was made by John McGlennon and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, McGlennon, Larson, Sadler, Onizuk

#### **E. ADJOURNMENT**

1. Adjourn until 5 p.m. on December 12, 2017 for the Regular Meeting

A motion to Adjourn was made by Ruth Larson and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, McGlennon, Larson, Sadler, Onizuk

At approximately 5:36 p.m., Mr. Onizuk adjourned the Board.

**MINUTES**  
**JAMES CITY COUNTY BOARD OF SUPERVISORS**  
**REGULAR MEETING**  
**County Government Center Board Room**  
**101 Mounts Bay Road, Williamsburg, VA 23185**  
**December 12, 2017**  
**5:00 PM**

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**A. CALL TO ORDER**

**B. ROLL CALL**

Ruth M. Larson, Vice-Chairman, Berkeley District  
Michael J. Hipple, Powhatan District  
P. Sue Sadler, Stonehouse District  
John J. McGlennon, Roberts District  
Kevin D. Onizuk, Chairman, Jamestown District

Bryan J. Hill, County Administrator  
Adam R. Kinsman, County Attorney

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE**

1. Pledge Leader - Alastair Smith, a 4th-grade student at James River Elementary School and a resident of the Roberts District

**E. PUBLIC COMMENT**

1. Mr. Gary Carlile, 3724 Mesa River, addressed the Board in regard to street paving, Phase 2 of Monticello Woods subdivision.
2. Dr. Stuart Cole, 2797 Jonas Profit Trail, addressed the Board in regard to water resources and opposition to Hampton Roads Sanitation District Sustainable Water Initiative for Tomorrow (SWIFT).
3. Mr. Jay Everson, 103 Branscome Blvd., addressed the Board in regard to SWIFT.
4. Mr. Chris Henderson, 101 Keystone, addressed the Board in regard to general comments.

**F. PRESENTATIONS**

Mr. Onizuk recognized Mr. Rich Krapf, Mr. Heath Richardson, Mr. Chris Odle, Ms. Mona Foley and Mr. Jim Icenhour.

Mr. McGlennon introduced Mr. Tuong (Tony) Pham, Director of the Virginia Peninsula Regional Jail.

1. Chairman's Awards

Mr. Onizuk presented the members of the Strategic Plan Advisory Group with the 2017 Chairman's Award for a community member or group that has made a significant impact on the community.

Mr. Onizuk presented Mr. Allen Turner, Building Official Section Chief for Permits, with a 2017 Chairman's Award for his work to streamline the inspection process and his commitment to the administration of building codes to protect the citizens of the County.

Mr. Onizuk presented Communications Specialist, Mr. Christopher Williams, and Multimedia Production Specialist, Mr. Brett Lewis, with a 2017 Chairman's Award for working tirelessly to provide the best video production and television programming for the community.

2. Results of Fiscal Year 2017 Financial Statement Audit for James City County and James City Service Authority – Dixon Hughes Goodman, LLP

Ms. Leslie Roberts, Partner at Dixon Hughes Goodman, LLP, stated that as a part of an audit there are several opinions issued. She further stated that the main report, or independent auditor's opinion, for the County shows an unmodified opinion which is the highest level of assurance given on financial statements. She remarked that a report on internal control over financial reporting for the County was issued and there were no issues or significant deficiencies. She referenced a compliance audit for the County and reported that it was also a clean report. She further referenced the Auditor Public Accounts and stated that it had no findings and emphasized this being a grand achievement. She stated that there is nothing in the County Comprehensive Annual Financial Report that negatively reflects on the County as a result of the audit.

Mr. Onizuk expressed his thanks for the work of Dixon Hughes Goodman, LLP, Ms. Sue Mellen, Director of Financial and Management Services, Ms. Sharon Day, Assistant Director of Financial and Management Services and the entire Financial and Management Services team.

**G. CONSENT CALENDAR**

A motion to Approve was made by John McGlennon, the motion result was Passed.  
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0  
Ayes: Larson, Hipple, McGlennon, Sadler, Onizuk

1. Minutes Adoption

2. Federal Grant Award – Bulletproof Vest Partnership – \$25,972

3. Williamsburg Child Health Initiative Planning Grant

**H. PUBLIC HEARING(S)**

1. AFD-2-86-1-2017, Croaker AFD Addition, 9730 Sycamore Landing Road

A motion to Approve was made by John McGlennon, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Larson, Hipple, McGlennon, Sadler, Onizuk

Mr. Alex Baruch, Planner I, stated that Ms. Mary Mitchell is applying to add 9730 Sycamore Landing Road, into the Croaker Agricultural and Forestal District (AFD) as indicated in the documents included in the Agenda Packet.

Mr. Rich Krapf, Chair, Planning Commission, stated that this item was voted unanimously for approval by the Planning Commission.

As there were no questions for staff, Mr. Onizuk opened the Public Hearing.

1. Mr. Richard Mitchell, 409 Henried Road, Richmond, VA, commented on his family's history of the property located at 9730 Sycamore Landing Road.

2. Mr. Wade Schmidt, 7801 Richmond Road, commented on Item AFD-2-86-1-2017.

As there were no other registered speakers, Mr. Onizuk closed the Public Hearing.

Mr. McGlennon stated that he read the narrative provided by the applicant and is pleased to have the opportunity to encourage more agricultural use for lands.

2. Z-0002-2017/MP-0002-2017, The Parke at Ford's Colony

A motion to Deny was made by Michael Hipple, the motion result was Passed.

AYES: 4 NAYS: 1 ABSTAIN: 0 ABSENT: 0

Ayes: Larson, Hipple, McGlennon, Sadler

Nays: Onizuk

The Board watched a brief video regarding this item with information included in the Agenda Packet.

Ms. Roberta Sulouff, Planner II, was present for any questions.

Mr. Krapf gave an overview of the Planning Commission's recommendation regarding this item.

Mr. Vernon Geddy, 1177 Jamestown Road, representing the applicant, commented briefly on the process. Accompanying Mr. Geddy was Ms. Natalie Croft, Land Development Planner with Eagle Construction, who gave a brief PowerPoint slideshow overview.

Mr. Onizuk questioned the traffic concerns in Ford's Colony regarding the park and the entry gates.

Ms. Croft addressed this concern stating that a mobile electronic pass would be utilized to allow moving around inside the subdivision easier.

As there were no questions for staff, Mr. Onizuk opened the Public Hearing.

1. Mr. Mark Mathews, 113 Long Point, addressed the Board and stated that he is the elected President of the Ford's Colony Homeowner Association (HOA). He commented about Ford's Colony residential feedback regarding The Parke at Ford's Colony and stated that concerns have been satisfied.
2. Mr. Patrick Rowe, 100 Royal Saint Georges, addressed the Board regarding The Parke at Ford's Colony.
3. Mr. Chris Henderson, 101 Keystone, addressed the Board regarding The Parke at Ford's Colony.
4. Mr. Tom Hitchens, 350 Thompson Lane, represented a group of individuals residing on Thompson Lane in Ford's Colony and addressed the Board regarding their opposition to The Parke at Ford's Colony.
5. Ms. Lynne Wilder, 3467 Westport, addressed the Board regarding her opposition to The Parke at Ford's Colony.
6. Mr. Charles Ewing, 232 Thompson Lane, addressed the Board regarding The Parke at Ford's Colony.

As there were no other registered speakers, Mr. Onizuk closed the Public Hearing.

Mr. McGlennon asked for clarification on the question of whether or not additional units are to be added to the Master Plan.

Ms. Sulouff replied yes, the Board adopted the Master Plan which currently includes 3,846 units, this application is proposing 81 new additional units, bringing the total to 3,927 units.

Mr. McGlennon inquired if that would not affect the units that are currently unbuilt within the existing Ford's Colony Master Plan, and those would still be available for development.

Ms. Sulouff replied correct.

Mr. McGlennon referred to the issue raised regarding traffic studies and asked why there has not been an additional traffic study done since 2008.

Mr. Paul Holt, Director of Community Development, replied that it is his understanding that the updated traffic study was done approximately two or three months ago by one of the property owners, but has not been submitted by the County.

Mr. McGlennon stated that it has been nine years since the previous study.

Mr. Holt replied correct.

General discussion ensued regarding this matter.

Ms. Sadler commented that keeping traffic in mind, she inquired if there are plans for expansion or improvements on Centerville Road anytime in the near future.

Mr. Holt replied there are currently no plans. He remarked that the last time the County did its comprehensive look County-wide, Centerville Road operated at an acceptable Level of Service (LOS) and is projected to continue at an acceptable LOS through 2034 and based on that there are no immediate plans to seek funding to widen Centerville Road.

Mr. Hipple commented that funding for roads is few and far between and if the road is not presently in the works the 2040 plan is slowly slipping away.

Mr. McGlennon inquired about the entrance way to the affected areas off Centerville Road.

Mr. Holt replied that he believes Westport is one lane in each direction.

Mr. McGlennon inquired about the congestion before you get to the entrances to the two pods of development.

Mr. Holt replied that he would defer to the applicant.

Ms. Sadler inquired about the issue of the silt and runoff into Gordon Creek.

General discussion ensued regarding this topic.

Mr. McGlennon inquired to the developers about the entry egress.

Mr. Jason Grimes, Professional Engineer with AES Consulting Engineers, addressed the traffic study concerns.

Mr. McGlennon inquired about the distance of the two-lane roads before getting to the entrance of the two pods.

Mr. Core replied that he did not know the exact scale; however, it is 400 feet into the property before the turn lanes splice out.

Mr. McGlennon inquired about the distance off the road before the access point.

Mr. Core replied that once off Centerville Road it would be 400 feet before branching into either of the two pods of development.

General discussion ensued regarding this issue.

Mr. Hipple inquired about the project in Richmond and the numbers reported from the Goochland County School Board.

Ms. Croft replied that in Goochland County there are three of The Parke neighborhoods that are age-targeted, not age-restricted, with three neighborhoods that comprise a total of 297 homes. She stated that the data from the Goochland County School Board states there are six children from those three neighborhoods combined.

Mr. Hipple asked if those neighborhoods are totally built out.

Ms. Croft replied yes.

Mr. Hipple inquired about the length of time that included, was it between build-out,

completion and present.

Ms. Croft replied she was not sure; however, the data came this fall. She stated that the three other subdivisions of The Park had been established for 10+ years.

Mr. Hipple reiterated that some of the established neighborhoods have less children than a newer neighborhood, due to people retaining their homes for longer periods of time.

Ms. Croft discussed The Park and the audience that it generally targets.

Mr. Onizuk inquired if these are age-restricted.

Ms. Croft replied age-targeted, not age-restricted.

Mr. Hipple inquired if the Primary Service Area (PSA) was ever moved in that area.

Ms. Sulouff replied not to her knowledge.

General discussion ensued regarding the PSA.

Mr. McGlennon inquired about reasonable expectations when Westport was developed, regarding the likelihood of a more intensive development on this parcel.

Mr. Holt replied that it is zoned for A-1 on the Comprehensive Plan Land Use Map; therefore, for by-right zoning it would be the one lot for three acres, but with the low density residential it could be up to four dwelling units per acre.

Mr. McGlennon commented that part of it is rural lands and part is low density residential with the expectation probably being that it would be developed at one unit an acre.

Mr. Holt replied that it could be anywhere from one to four.

Mr. McGlennon made the remark "without the density bonuses."

Mr. Holt replied correct.

Mr. Hipple stated that he spoke with the HOA members about what they were proposing, Mr. Geddy and to the development team. He further stated that he felt it was a good project in his district and spoke with the homeowners. He remarked that the homeowners were not in support of this project, the problem being the amount of houses to be built in this development. He commented that he struggled with the question "is this a good project for the County" and "what does this do for its citizens." He further remarked that this would be an outstanding project for Ford's Colony and Eagle Construction; however, he pondered what this would do for the citizens residing outside the gate. He noted that traffic flow, transportation projects to widen roads, financial strains and school redistricting issues are all great concerns.

Ms. Larson stated that she appreciated the presentation and the citizens that took time to attend the meeting. She further stated that the traffic improvements needed on Centerville Road are due to the increased traffic. She remarked that the County has an outstanding school system and there are neighborhoods that were originally told would not have school-aged children; however, they do have children. She further remarked that the hardship of such a situation is that school buildings, school buses, teachers, etc., have to be provided in order to accommodate the needs; therefore, what is happening in

Goochland County cannot influence decisions that are necessary to be made locally. She commented that this is a form of growth and frequently receives comments from citizens to stop the growth. She noted that the growth cannot be stopped because there are already permits out there; but, what can be done is to not continue to add more.

Ms. Sadler stated that she had read the documents over and over again and still had many concerns about stormwater runoff and traffic. She feels that the plan would be beneficial for a targeted community and noted that she appreciated the phone calls and emails from citizens, Mr. Geddy and his clients.

Mr. McGlennon stated that he has spoken with area residents and his biggest concerns are that this development does not fit with this particular piece of property on which it is being proposed and would change the character of the western side of Ford's Colony. He further stated that he sees a lot of benefit from the perspective of the Ford's Colony HOA, but not from a broader community benefit; therefore, he can not justify the additional density that is being provided for this particular project.

Mr. Onizuk stated that on the positive side this is a proposed development or growth and is within the Primary Service Area (PSA). He further stated that while this is talked about as rural lands or rural areas, an arbitrary PSA line was created where this Board said it wanted growth to happen; therefore, they are giving what this Board asked for. He noted that this is not necessarily additional units, this fits in with the units already approved by the Ford's Colony Master Plan and it brings this parcel into the Plan. He commented that his concern is that it is across Centerville Road on the side that is generally known to be a little more rural in character, noting there are developments on that side of Centerville Road within the PSA. He stated that per the Comprehensive Plan it could be expected to be anywhere from one to four units per acre, and remarked that it is not necessarily something outside of expectations for people that have moved into that area. He further remarked that while there are targets for what is expected regarding school-aged children, that does not necessarily mean there is not going to be expenses, that as you have a different demographic in a community you have different needs. He stated there is an application tonight from Eagle Construction that is endorsed by Ford's Colony and fits within the Ford's Colony Master Plan units, within the PSA, meeting a need for Ford's Colony elderly residents, endorsed by the Ford's Colony HOA Board and that he leans toward a yes vote. He further stated that he often listens to the Board representative of a district that is being discussed and listening to Mr. Hipple his opinions and concerns give him pause.

The Board went into a short Recess at approximately 7:23 p.m.

The Board reconvened at approximately 7:30 p.m.

3. Z-0001-2017, SUP-0001-2017, MP-0001-2017, HW-0001-2017, Williamsburg Landing, Marclay Road

A motion to Approve was made by John McGlennon, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Larson, Hipple, McGlennon, Sadler, Onizuk

Mr. Baruch gave an overview of this item that is included in the Agenda Packet.

Mr. Krapf gave an overview of the Planning Commission's recommendation regarding this item.



Mr. Onizuk inquired if the Planning Commission had discussion about any possible future use for the parcel.

Mr. Krapf replied no, he felt it was understood that if it was not approved it would remain as airport with accessory uses related to airport operations. He commented that there was discussion regarding plans in the pipeline for airport expansion and the state representative indicated the size of the Williamsburg Airport seems to be suitable and serving the population adequately. He further commented that there was a side discussion about a Special Use Permit (SUP) request and rezoning, that if the SUP were allowed to expire and the rezoning had been approved, there would be a possible residential use; however, it was felt that with Williamsburg Landing being an established community the risk was there that the SUP would expire and some other residential use would go on that parcel.

Mr. Onizuk opened the Public Hearing.

1. Mr. Will Holt, Esq., 4801 Courthouse Street, attorney with Kaufman and Canoles, joining Mr. Holt were representatives of Williamsburg Landing; Mr. Greg Storer, CEO; Mr. Vernon Baker, COO; Mr. Chester Tellis, CFO; Ms. Ginnie McLaughlin, Chair of Williamsburg Landing Board; Members of the Williamsburg Landing Board; Mr. Paul Gerhardt, Esq., Secretary and General Council to Williamsburg Landing, Mr. Ryan Stephenson, AES Consulting Engineers; Mr. Tom Tingle, President of Guernsey Tingle. Mr. Holt and Mr. Tingle gave an overview of a PowerPoint slideshow regarding Williamsburg Landing.
2. Ms. Gennie McLaughlin, 5700 Williamsburg Landing Drive, commented on her personal reasons behind submitting Case Nos. Z-0001-2017, SUP-0001-2017, MP-0001-2017, HW-0001-2017 Williamsburg Landing, Marclay Road. She noted that many of the Williamsburg Landing Board of Directors were present in the audience, briefly discussed this case and asked the Board to vote in favor of this item.
3. Mr. William Kaufmann, 5802 College Creek, a resident of Williamsburg Landing and no relation to the law firm of Kaufman and Canoles, noted that he is on the Williamsburg Landing Board of Directors. He was a spokesman for other residents of Williamsburg Landing that were in the audience and addressed the Board in regard to Item No. 3.
4. Mr. Richard Costello, 10020 Sycamore Landing Road, a retired President of AES Consulting Engineers and currently on the Williamsburg Landing Board of Directors, addressed the Board in regard to Item No. 3 and stressed that the residents, the Board of Directors and the project are all community based.

Mr. Onizuk closed the Public Hearing.

Mr. McGlennon inquired about the easement around the property that states there will not be any other access to the property through the internal streets of Williamsburg Landing. He also inquired about the expiration date of the SUP.

Mr. Kinsman stated that he had a fully executed easement requiring all of the access from this particular proposed addition to go through Williamsburg Landing to use the

main entrance. He further stated that if the Board approves this rezoning he would record that easement tomorrow, which will give the Board and the County some permanent ability to restrict access. He noted that in regards to the SUP the Board can choose an expiration date it would like; however, SUPs do not require an expiration date.

Mr. Onizuk inquired what could presently go in there with the property currently zoned R-8.

Mr. Baruch stated that there are many by-right and specially permitted uses in R-8 Zoning, and noted the Comprehensive Plan stated uses that are associated with the airport are preferred; but, there is nothing shown on the airport Master Plan in that area.

Mr. McGlennon disclosed that he had conversations with the people from Williamsburg Landing and residents of Kingspoint neighborhood, and noted his appreciation of the easement execution that provides significant protection of the County. He emphasized that this cannot be viewed as a residential development, Williamsburg Landing has become an essential component of the healthcare environment in the County and the Greater Williamsburg area. He noted that the seller of the property to Williamsburg Landing has been in the process of divesting some properties in the immediate vicinity and would possibly have been sold to someone else if it had not been acquired by Williamsburg Landing, therefore this is a proposal that makes sense in respect of a well-established community institution and at the same time is probably one of the better uses made of that property. He stated his support of this application.

Mr. Kinsman reiterated that the motion is to approve the Rezoning, the SUP, the Master Plan and the Height Waiver.

Mr. Onizuk replied that is correct, with a 10-year expiration date.

Members of the audience applauded the Board.

Mr. McGlennon recognized that earlier this year the Board adopted an initiating resolution that asked the Planning Commission to look at the possibility of revising the zoning category to allow for some form of exception in this case and he proposed that the Board tell the Planning Commission that there is no need to go forward with that initiating resolution.

4. SUP-0005-2017/SUP-0006-2017/SUP-0007-2017/SUP-0008-2017, Lightfoot Marketplace Special Use Permit Amendment

A motion to Approve the Resolution for Case No. SUP-0005-2017 was made by Michael Hipple the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Larson, Hipple, McGlennon, Sadler, Onizuk

A motion to Approve the Resolution for Case No. SUP-0006-2017 was made by Michael Hipple the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Larson, Hipple, McGlennon, Sadler, Onizuk

A motion to Approve the Resolution for Case No. SUP-0007-2017, listed as

Attachment 4 in the Agenda Packet, was made by Michael Hipple the motion result was Passed.

AYES: 4 NAYS: 1 ABSTAIN: 0 ABSENT: 0

Ayes: Larson, Hipple, Sadler, Onizuk

Nays: McGlennon

A motion to Approve the Resolution for Case No. SUP-0008-2017, listed as Attachment 6 in the Agenda Packet, was made by Michael Hipple the motion result was Passed.

AYES: 4 NAYS: 1 ABSTAIN: 0 ABSENT: 0

Ayes: Larson, Hipple, Sadler, Onizuk

Nays: McGlennon

Mr. Jose Ribeiro, Planner III, gave an overview of a PowerPoint presentation included in the Agenda Packet.

Ms. Sadler inquired if landscaping and buffers had been added to the front façade as opposed to changing what the front façade will look like from Richmond Road.

Mr. Ribeiro replied that the applicant is proposing for the drive-through restaurant order food board and drive-through window to be screened with landscape.

Mr. Onizuk inquired if the Valvoline auto service station will be located on the parcel.

Mr. Ribeiro replied that it will be fronting on Richmond Road by the side of the proposed fast food restaurant and is shown as Building 6A on the Master Plan.

Mr. Krapf stated that this case spanned two Planning Commission meetings where it discussed the Richmond Road frontage, elevation, four applicant guideline change concerns and Planning Commission voting on this issue.

Mr. McGlennon inquired if any other cases in the adjacent corridor were allowed similar reorientation.

Mr. Krapf replied no and noted that two tenants originally scheduled to go into Building Nos. 4 and 6 withdrew; therefore, it resulted in different tenants which added to the complexity of the case.

Mr. McGlennon asked the same question to staff.

Mr. Ribeiro replied no, not that he was aware of.

Mr. Onizuk opened the Public Hearing.

1. Mr. Will Holt, Esq., 4801 Courthouse Street, Attorney with Kaufman and Canoles, representing the applicant. Joining Mr. Holt were members of the project team. He gave an overview of a PowerPoint slideshow regarding Item No. 4.
2. Mr. Rob Murphy, 575 Maryville Center Drive., St. Louis, MO, representative of Valvoline, addressed the Board regarding Item No. 4.

Mr. Hipple gave kudos to the Planning Commission for the job it did regarding this project. He stated his support for the project.

Mr. McGlennon stated that he is pleased that Valvoline is interested in coming into the shopping center; however, his concern is that when the Board approved this shopping center there was a particular design in mind that was consistent with the entire corridor and a consistency in the community. He further stated his concern that a certain aspect of the design of these two buildings is being abandoned for particular clients that have said they want to come in today; however, the County has experienced a lot of turnover in retail establishments. He remarked that if the expectations of development are changed for each individual one, there will never be any consistency. He further remarked his support for staff in these recommendations and noted that the Board wants the shopping center to have a distinctive look and be part of a Community Character Corridor (CCC).

Ms. Sadler stated her appreciation for the CCC and feels that the consistency is being accomplished with the buffering and stressed that the Board can be flexible depending on what type of business wants to set-up in a shopping center. She commented that she appreciated the need to be flexible when working with the applicant and was excited about the new businesses coming to the area.

Mr. Kinsman directed the Board on clarity of the motions for this item.

Mr. Paul Holt directed the Board on the clarity of the individual cases for voting purposes on this item.

#### 5. SUP-0009-2017, 3601 La Grange Parkway Expansion

A motion to Approve was made by Sue Sadler, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Larson, Hipple, McGlennon, Sadler, Onizuk

Ms. Savannah Pietrowski, Planner II, gave an overview of material contained in the Agenda Packet.

Mr. Krapf stated that there was very little discussion regarding this case at the Planning Commission meeting as it felt that this was a good fit to the commerce park.

Mr. Onizuk opened the Public Hearing.

As there was one comment card that was optional and the applicant was present in case of any questions by the Board, Mr. Onizuk closed the Public Hearing.

Ms. Sadler stated that she was very appreciative of the opportunity to broaden and expand the economic development opportunities in the Stonehouse District.

### **I. BOARD CONSIDERATION(S)**

None

### **J. BOARD REQUESTS AND DIRECTIVES**

Ms. Larson presented Mr. Onizuk with a mantle clock with his dates of service inscribed on it and expressed the Board's appreciation for his outstanding service from January 1,

2014 to December 31, 2017.

Mr. Onizuk expressed his thanks and comradeship with the Board members.

Mr. Hipple stated that he had enjoyed serving with Mr. Onizuk and expressed his thanks for the leadership he has contributed to the Board.

Ms. Sadler expressed her gratitude to Mr. Onizuk for his mentorship, help and guidance for the Board and the community. She stated that she attended the Community Action Agency meeting which discussed its mission and programs. She expressed her sympathy to the family, friends and colleagues for the recent passing of the former Executive Director Reba Bolden.

Mr. McGlennon mirrored Ms. Sadler's condolences to the family, friends and colleagues of Ms. Bolden. He expressed condolences to the families of Ms. Ursula Murden and Ms. Ruth Mulaney on their recent passing. He thanked Ms. Larson for leadership tonight in arranging for appropriate recognition and social gathering. He expressed his gratitude to Mr. Onizuk for the opportunity to work alongside of him on the Board over the last four years and wished him the best in future endeavors. He stated that this is the last public meeting that Mr. Hill will be in attendance. He thanked him for all the efforts he has made to provide the Board with a clear and thoughtful structure moving forward to channel its own ideas and interests into a program that developed a Strategic Plan and tied that to the budgeting process. He wished Mr. Hill the very best in future endeavors.

Mr. Onizuk restated his appreciation to everyone that has made the past four years great to serve the County. He expressed his appreciation of living in James City County and all that it offers as a community. He praised Mr. Hill's work as County Administrator and being an asset to the Board as well as his interaction and leadership within the community. He stated that he recently finished as Chairman of Williamsburg Area Destination Marketing Committee and noted that it had been an exceptional year. He gave a brief overview of its accomplishments during the past year.

## **K. REPORTS OF THE COUNTY ADMINISTRATOR**

### **1. County Administrator's Report**

Mr. Hill expressed his gratitude for the kind words and stated that he had submitted his monthly report and will have one submitted in the new year. He thanked the Board for allowing the James City County team to move the County forward, noting that the Strategic Plan was a great process for the community. He expressed his gratitude in working with the Board members over the past years. He stated his kudos to Mr. Kinsman, Mr. Jason Purse and several staff members for their hard work.

At approximately 9:10 p.m. Mr. Onizuk recessed the Board of Supervisors in order to conduct the James City Service Authority Board of Directors meeting.

At approximately 9:14 p.m. Mr. Onizuk reconvened the Board of Supervisors.

## **L. CLOSED SESSION**

A motion to Enter a Closed Session was made by John McGlennon, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Larson, Hipple, McGlennon, Sadler, Onizuk

At approximately 9:14 a.m., the Board entered Closed Session.

At approximately 9:24 a.m., the Board re-entered Open Session.

1. Closed Session Certification

A motion to Certify the Closed Session was made by John McGlennon, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Larson, Hipple, McGlennon, Sadler, Onizuk

2. Consideration of a personnel matter, the discussion of candidates for the position of Interim County Administrator and to discuss the salary and resignation of the County Administrator, pursuant to Section 2.2-3711 (A)(1) of the Code of Virginia

A motion to Appoint Mr. William Porter as Interim County Administrator, effective January 2, 2018, was made by Ruth Larson, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Larson, Hipple, McGlennon, Sadler, Onizuk

**M. ADJOURNMENT**

1. Adjourn until 4 p.m. on January 2, 2018 for the Organizational Meeting

A motion to Adjourn was made by Michael Hipple, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Larson, Hipple, McGlennon, Sadler, Onizuk

At approximately 9:25 p.m., Mr. Onizuk adjourned the Board.

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Deputy Clerk

**ITEM SUMMARY**

DATE: 1/9/2018

TO: The Board of Supervisors

FROM: Kitty Hall, Purchasing Director

SUBJECT: Recommendation of Contract Award for Banking Services

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**ATTACHMENTS:**

	Description	Type
☐	mem	Cover Memo
☐	res	Resolution

**REVIEWERS:**

Department	Reviewer	Action	Date
Purchasing	Hall, Kitty	Approved	12/21/2017 - 1:05 PM
Financial Management	Mellen, Sue	Approved	1/2/2018 - 4:05 PM
Publication Management	Burcham, Nan	Approved	1/2/2018 - 4:32 PM
Legal Review	Kinsman, Adam	Approved	1/2/2018 - 4:40 PM
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 4:41 PM
Board Secretary	Purse, Jason	Approved	1/2/2018 - 4:41 PM
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 4:42 PM

**MEMORANDUM**

DATE: January 9, 2018  
TO: The Board of Supervisors  
FROM: Kitty Hall, Director of Purchasing  
SUBJECT: Contract Awards - Banking Services

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A Request for Proposal (RFP) was solicited from qualified financial institutions to provide banking for certain County departments and fiscal agencies, merchant card processing services.

Interested firms responded to the RFP by describing their services, interest, qualifications, project approach and experience in performing similar services. A panel of staff members representing the Treasurer's Office, Finance, Schools and Purchasing evaluated the proposals and selected the most qualified firms. The contracts have an initial term of five years with five additional one-year options available to the County. The RFP included Cooperative procurement provisions allowing other entities to use the financial institutions if they so choose.

The banks selected for contract award are:

SunTrust  
Towne Bank

Staff recommends approval of the attached resolution awarding a contract to the firms listed above.

KH/nb  
Ca-BnkServ-mem

Attachment



**RESOLUTION**

**CONTRACT AWARDS – BANKING SERVICES**

WHEREAS, a Request for Proposals (RFP) has been advertised and evaluated for banking services; and

WHEREAS, the firms listed below were determined to be the best qualified to provide the required banking services;

SunTrust  
Towne Bank

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contracts for banking services to the firms listed in this resolution.

\_\_\_\_\_  
Ruth M. Larson  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January, 2018.

CA-BnkServ-res

**ITEM SUMMARY**

DATE: 1/9/2018

TO: The Board of Supervisors

FROM: Frances C. Geissler, Director of Stormwater and Resource Protection

SUBJECT: Dedication of the Streets in the Cottages at Stone Haven Subdivision

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**ATTACHMENTS:**

	Description	Type
☐	Memo	Cover Memo
☐	Resolution	Resolution
☐	AM-4.3	Exhibit
☐	Map	Exhibit

**REVIEWERS:**

Department	Reviewer	Action	Date
Engineering & Resource Protection	Geissler, Fran	Approved	12/22/2017 - 2:14 PM
Development Management	Holt, Paul	Approved	12/22/2017 - 2:17 PM
Publication Management	Burcham, Nan	Approved	12/22/2017 - 2:52 PM
Legal Review	Kinsman, Adam	Approved	12/22/2017 - 2:58 PM
Board Secretary	Fellows, Teresa	Approved	12/28/2017 - 11:12 AM
Board Secretary	Purse, Jason	Approved	1/2/2018 - 1:52 PM
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 1:54 PM

## MEMORANDUM

DATE: January 9, 2018

TO: The Board of Supervisors

FROM: Frances C. Geissler, Director of Stormwater and Resource Protection

SUBJECT: Dedication of the Streets in the Cottages at Stone Haven Subdivision

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Attached is a resolution requesting acceptance of the streets in the Cottages at Stone Haven Subdivision which are proposed as public right-of-ways into the State Secondary Highway System. The streets proposed for acceptance are Stone Haven Drive and Brownstone Circle and are shown in red on the attached map. The streets have been inspected and approved by representatives of the Virginia Department of Transportation (VDOT) as meeting the minimum requirements for secondary roadways.

VDOT's Secondary Street Acceptance Requirements (SSAR), effective March 2009 and updated December 2011, outline processes on how streets are designed, constructed, and officially accepted for maintenance as part of the secondary system of state highways. Upon the satisfactory completion of construction of streets, VDOT advises and coordinates with the local governing body of the street's readiness for acceptance through the use of VDOT's Form AM-4.3. As part of the initial acceptance process, the County Board of Supervisors must request, by resolution, that VDOT accept the street for maintenance as part of the secondary system of state highways. Administrative procedures outlined in the SSAR/24VAC30-92-70 lists criteria for street acceptance and what information is required on the local resolution. Once the resolution is approved, the signed Form AM-4.3 and the resolution are then returned to VDOT. VDOT then officially notifies the locality of the street's acceptance into the secondary system of state highways and the effective date of such action. This notification serves as the start of VDOT maintenance responsibility. As part of the process, the County will hold an appropriate amount of subdivision or public improvement surety for the roadway, as required by local ordinances, until the acceptance process is complete. Also, within 30 days of the local governing body's request (resolution), VDOT requires a maintenance surety to be posted by the developer to guarantee performance of the street for one year from the date of acceptance.

Staff recommends the adoption of the attached resolution.

FCG/nb  
CottageSH-StDed-mem

Attachment

**RESOLUTION**

**DEDICATION OF THE STREETS IN THE COTTAGES AT STONE HAVEN SUBDIVISION**

WHEREAS, the streets described on the attached Virginia Department of Transportation (VDOT) Form AM-4.3 for the Cottages at Stone Haven Subdivision, fully incorporated herein by reference, are shown on plats recorded in the office of the James City County Clerk of the Circuit Court; and

WHEREAS, the Residency Administrator for VDOT advised the Board that the streets meet the Secondary Street Acceptance Requirements (SSAR) of VDOT; and

WHEREAS, the County and VDOT entered into an agreement on July 1, 1994, for comprehensive stormwater detention, which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests VDOT to add the streets described in the attached VDOT Form AM-4.3 for the Cottages at Stone Haven Subdivision to the secondary system of state highways, pursuant to §33.2-705 of the Code of Virginia and VDOT's SSAR.

BE IT FURTHER RESOLVED that the Board of Supervisors guarantees clear and unrestricted right-of-ways as described and any necessary easements for cuts, fills and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Residency Administrator for VDOT.

\_\_\_\_\_  
Ruth M. Larson  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January, 2018.

In the County of James City

By resolution of the governing body adopted January 9, 2018

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

A Copy Testee

Signed (County Official): \_\_\_\_\_

Report of Changes in the Secondary System of State Highways

Project/Subdivision The Cottages at Stone Haven

Type Change to the Secondary System of State Highways: Addition

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as required, is hereby guaranteed:

Reason for Change: New subdivision street

Pursuant to Code of Virginia Statute: §33.2-705

Street Name and/or Route Number

Stone Haven Drive, State Route Number 1758

Old Route Number: 0

- From: Neck-O-Land Road (Route 682)
To: Brownstone Circle (Route 1759), a distance of: 0.14 miles.

Recordation Reference: INST. NO. 140010816

Right of Way width (feet) = 75 - 50

Street Name and/or Route Number

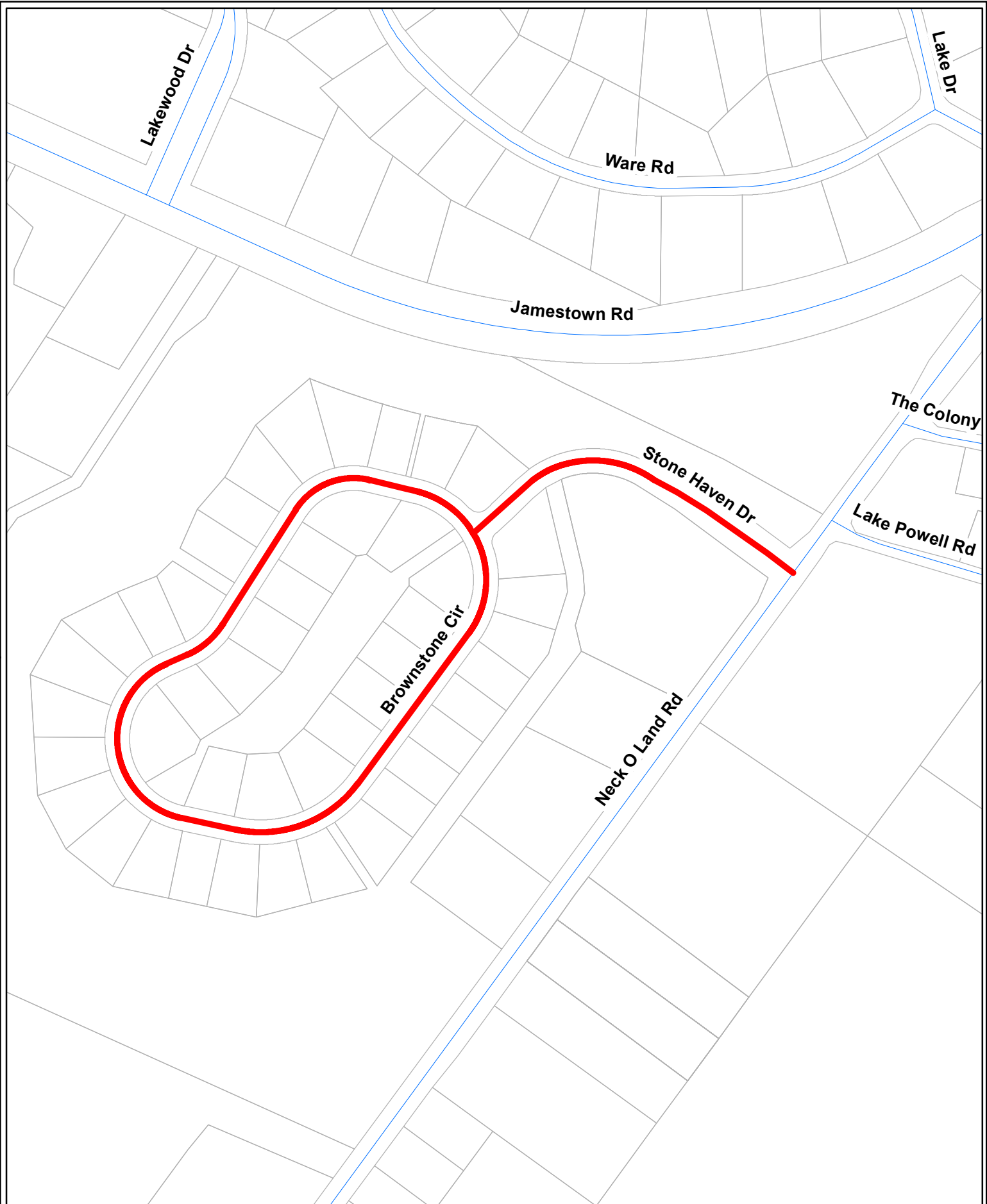
Brownstone Circle, State Route Number 1759

Old Route Number: 0

- From: Stone Haven Drive (Route 1758)
To: Stone Haven Drive (Route 1758), a distance of: 0.42 miles.


Recordation Reference: INST. NO. 140010816

Right of Way width (feet) = 50



# Dedication of the Streets in the The Cottages at Stone Haven Subdivision

## Legend

 Streets to be Dedicated  
1 inch = 250 feet



**ITEM SUMMARY**

DATE: 1/9/2018

TO: The Board of Supervisors

FROM: Frances C. Geissler, Director of Stormwater and Resource Protection

SUBJECT: Dedication of the Streets in Section 5 of the White Hall Subdivision

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**ATTACHMENTS:**

	Description	Type
☐	Memo	Cover Memo
☐	Resolution	Resolution
☐	AM-4.3	Exhibit
☐	Map	Exhibit

**REVIEWERS:**

Department	Reviewer	Action	Date
Engineering & Resource Protection	Geissler, Fran	Approved	12/22/2017 - 2:14 PM
Development Management	Holt, Paul	Approved	12/22/2017 - 2:18 PM
Publication Management	Burcham, Nan	Approved	12/22/2017 - 2:53 PM
Legal Review	Kinsman, Adam	Approved	12/22/2017 - 2:58 PM
Board Secretary	Fellows, Teresa	Approved	12/28/2017 - 11:12 AM
Board Secretary	Purse, Jason	Approved	1/2/2018 - 1:51 PM
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 1:54 PM

**MEMORANDUM**

DATE: January 9, 2018

TO: The Board of Supervisors

FROM: Frances C. Geissler, Director of Stormwater and Resource Protection

SUBJECT: Dedication of the Streets in Section 5 of the White Hall Subdivision

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Attached is a resolution requesting acceptance of the streets in Section 5 of the White Hall Subdivision which are proposed as public right-of-ways into the State Secondary Highway System. The streets proposed for acceptance are Lavender Lane and Lantana Court and are shown in red on the attached map. The streets have been inspected and approved by representatives of the Virginia Department of Transportation (VDOT) as meeting the minimum requirements for secondary roadways.

VDOT's Secondary Street Acceptance Requirements (SSAR), effective March 2009 and updated December 2011, outline processes on how streets are designed, constructed and officially accepted for maintenance as part of the secondary system of state highways. Upon the satisfactory completion of construction of streets, VDOT advises and coordinates with the local governing body of the street's readiness for acceptance through the use of VDOT's Form AM-4.3. As part of the initial acceptance process, the County Board of Supervisors must request, by resolution, that VDOT accept the street for maintenance as part of the secondary system of state highways. Administrative procedures outlined in the SSAR/24VAC30-92-70 lists criteria for street acceptance and what information is required on the local resolution. Once the resolution is approved, the signed Form AM-4.3 and the resolution are then returned to VDOT. VDOT then officially notifies the locality of the street's acceptance into the secondary system of state highways and the effective date of such action. This notification serves as the start of VDOT maintenance responsibility. As part of the process, the County will hold an appropriate amount of subdivision or public improvement surety for the roadway, as required by local ordinances, until the acceptance process is complete. Also, within 30 days of the local governing body's request (resolution), VDOT requires a maintenance surety to be posted by the developer to guarantee performance of the street for one year from the date of acceptance.

Staff recommends the adoption of the attached resolution.

FCG/nb  
WhiteHSec5StDed-mem

Attachment



**RESOLUTION**

**DEDICATION OF THE STREETS IN SECTION 5 OF THE WHITE HALL SUBDIVISION**

WHEREAS, the streets described on the attached Virginia Department of Transportation (VDOT) Form AM-4.3 for Section 5 of the White Hall Subdivision, fully incorporated herein by reference, are shown on plats recorded in the office of the James City County Clerk of the Circuit Court; and

WHEREAS, the Residency Administrator for VDOT advised the Board that the streets meet the Secondary Street Acceptance Requirements (SSAR) of VDOT; and

WHEREAS, the County and VDOT entered into an agreement on July 1, 1994, for comprehensive stormwater detention, which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests VDOT to add the streets described in the attached VDOT Form AM-4.3 for Section 5 of the White Hall Subdivision to the secondary system of state highways, pursuant to §33.2-705 of the Code of Virginia and VDOT's SSAR.

BE IT FURTHER RESOLVED that the Board of Supervisors guarantees clear and unrestricted right-of-ways as described and any necessary easements for cuts, fills and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Residency Administrator for VDOT.

\_\_\_\_\_  
Ruth M. Larson  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January, 2018.

In the County of James City

By resolution of the governing body adopted January 9, 2018

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

A Copy Testee

Signed (County Official): \_\_\_\_\_

Report of Changes in the Secondary System of State Highways

Project/Subdivision White Hall Section 5

Type Change to the Secondary System of State Highways: Addition

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as required, is hereby guaranteed:

Reason for Change: New subdivision street

Pursuant to Code of Virginia Statute: §33.2-705

Street Name and/or Route Number

Lavender Lane, State Route Number 1824

Old Route Number: 0

- From: Lantana Court (Route 1825)
To: cul-de-sac, a distance of: 0.14 miles.

Recordation Reference: Inst.#150004500

Right of Way width (feet) = 50

Street Name and/or Route Number

Lavender Lane, State Route Number 1824

Old Route Number: 0

- From: School House Lane (Route 1155)
To: Lantana Court (Route 1825), a distance of: 0.04 miles.

Recordation Reference: Inst.#150004500

Right of Way width (feet) = 50

Street Name and/or Route Number

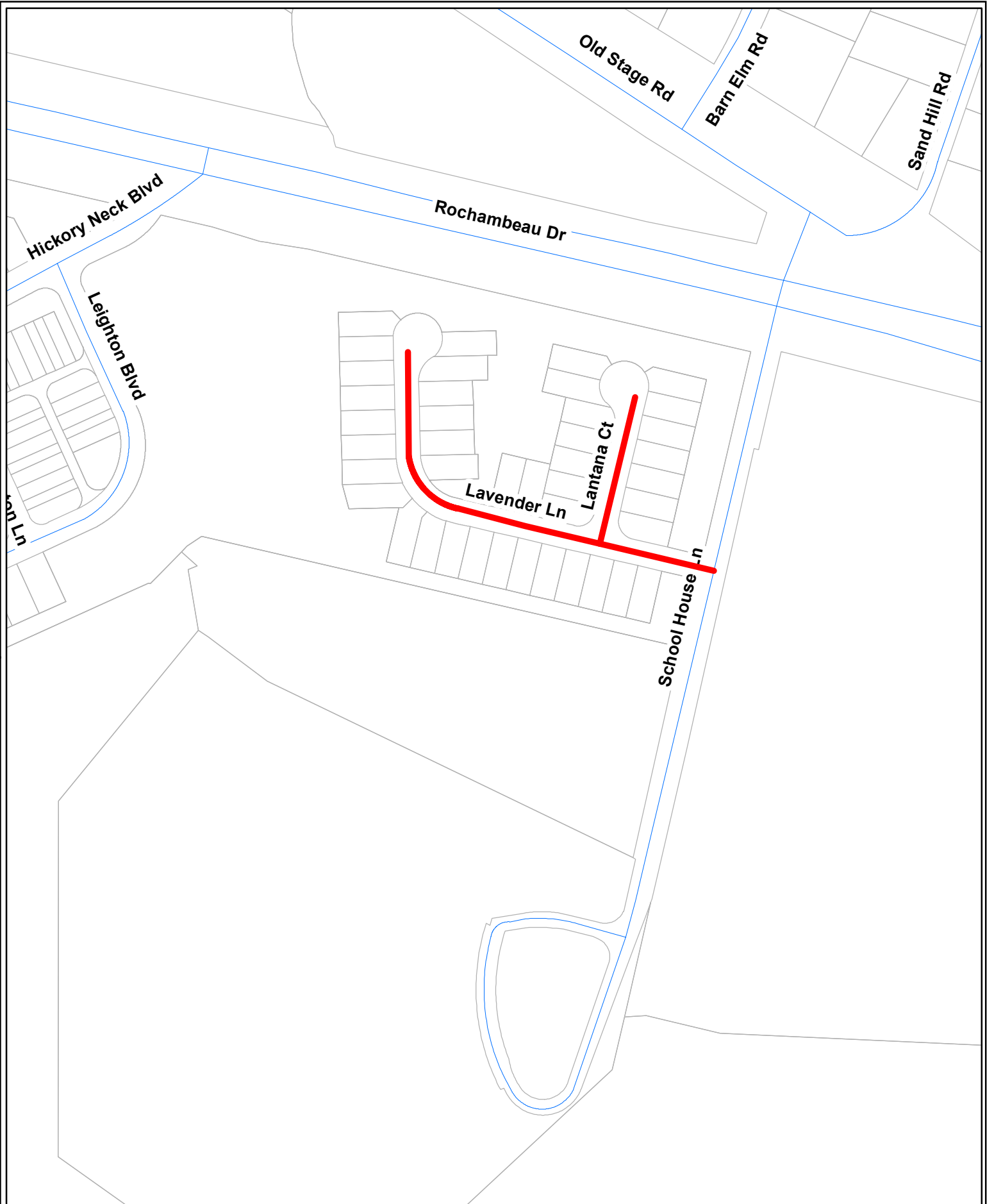
Lantana Court, State Route Number 1825

Old Route Number: 0

- From: Lavender Lane (Route 1824)
To: cul-de-sac, a distance of: 0.07 miles.


Recordation Reference: Inst.#150004500

Right of Way width (feet) = 50



## Dedication of the Streets in Section 5 of the White Hall Subdivision

### Legend

 Streets to be Dedicated

1 inch = 250 feet



**ITEM SUMMARY**

**DATE:** 1/9/2018

**TO:** The Board of Supervisors

**FROM:** William J. Mann, Jr., MD, Executive Medical Director of Olde Towne Medical and Dental Center

**SUBJECT:** Olde Towne Medical and Dental Center Addition of Nurse Practitioner/Physician's Assistant

---

**ATTACHMENTS:**

	Description	Type
☐	Memorandum	Cover Memo
☐	res	Resolution

**REVIEWERS:**

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	12/28/2017 - 11:12 AM
Board Secretary	Purse, Jason	Approved	1/2/2018 - 1:51 PM
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 1:53 PM
Publication Management	Burcham, Nan	Approved	1/2/2018 - 2:05 PM
Legal Review	Kinsman, Adam	Approved	1/2/2018 - 2:06 PM
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 2:07 PM
Board Secretary	Purse, Jason	Approved	1/2/2018 - 2:09 PM
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 2:10 PM

**M E M O R A N D U M**

DATE: January 9, 2018

TO: The Board of Supervisors

FROM: William J. Mann, Jr., MD, Executive Medical Director of Olde Towne Medical and Dental Center

SUBJECT: Olde Towne Medical and Dental Center Addition of Nurse Practitioner/Physician's Assistant

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Olde Towne Medical and Dental Center (OTMDC) serves the uninsured and underinsured population of James City County, York County and the greater Williamsburg area. OTMDC utilizes Nurse Practitioners/Physician's Assistant to provide quality health and wellness care. It is now necessary to increase provider availability to assure patient access at OTMDC.

I recommend the approval of the addition of a Nurse Practitioner/Physician's Assistant to the personnel staff of OTMDC, funded by the Williamsburg Area Medical Assistance Corporation.

WJM/nb  
OTMDC-PhyAsst-mem

Attachment

**RESOLUTION**

**OLDE TOWNE MEDICAL AND DENTAL CENTER**

**ADDITION OF NURSE PRACTITIONER/PHYSICIAN’S ASSISTANT**

WHEREAS, Olde Towne Medical and Dental Center (OTMDC) serves the uninsured and underinsured population of James City County, York County and the greater Williamsburg area; and

WHEREAS, OTMDC utilizes Nurse Practitioners and Physician’s Assistants to provide quality health and wellness care; and

WHEREAS, it is now necessary to increase provider availability to assure patient access at OTMDC.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the addition of a Nurse Practitioner/Physician’s Assistant to the personnel staff of OTMDC, funded by the Williamsburg Area Medical Assistance Corporation.

\_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST:

VOTES

AYE    NAY    ABSTAIN

MCGLENNON	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
ICENHOUR	_____	_____	_____

\_\_\_\_\_  
Teresa J. Fellows  
Deputy Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January, 2018.

OTMDC-PhyAsst-res

**ITEM SUMMARY**

DATE: 1/9/2018

TO: The Board of Supervisors

FROM: Suzanne R. Mellen, Director of Financial and Management Services

SUBJECT: Pre-Budget Public Hearing - FY 2019-2020 Biennial Budget

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**ATTACHMENTS:**

	Description	Type
☐	Memorandum	Cover Memo

**REVIEWERS:**

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 1:53 PM
Board Secretary	Purse, Jason	Approved	1/2/2018 - 1:54 PM
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 1:54 PM
Publication Management	Burcham, Nan	Approved	1/2/2018 - 2:05 PM
Legal Review	Kinsman, Adam	Approved	1/2/2018 - 2:06 PM
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 2:07 PM
Board Secretary	Purse, Jason	Approved	1/2/2018 - 2:09 PM
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 2:10 PM

**MEMORANDUM**

DATE: January 9, 2018  
TO: The Board of Supervisors  
FROM: Suzanne R. Mellen, Director of Financial and Management Services  
SUBJECT: Pre-Budget Public Hearing - FY 2019-2020 Biennial Budget

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The purpose of this public hearing is to invite comments and suggestions from citizens for the upcoming County Budget. The comments and suggestions made at this pre-budget Public Hearing will help guide staff in preparing a budget proposal for the Board's review in May. No Board action is requested at this time.

SRM/nb  
PH-2019-2020Bud-mem



**ITEM SUMMARY**

DATE: 1/9/2018

TO: The Board of Supervisors

FROM: W. Scott Whyte, Senior Landscape Planner II

SUBJECT: SUP-0013-2017, The Kensington School

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**ATTACHMENTS:**

	Description	Type
☐	Staff Report	Staff Report
☐	Resolution	Resolution
☐	Location Map	Exhibit
☐	Master Plan	Exhibit
☐	Building Elevations	Exhibit
☐	Narative	Exhibit
☐	Unapproved minutes of the December 6, 2017, Planning Commission meeting	Minutes

**REVIEWERS:**

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	12/20/2017 - 3:39 PM
Development Management	Holt, Paul	Approved	12/20/2017 - 3:39 PM
Publication Management	Burcham, Nan	Approved	12/20/2017 - 3:48 PM
Legal Review	Kinsman, Adam	Approved	12/21/2017 - 10:06 AM
Board Secretary	Fellows, Teresa	Approved	12/28/2017 - 11:30 AM
Board Secretary	Purse, Jason	Approved	1/2/2018 - 1:51 PM
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 1:54 PM

**SPECIAL USE PERMIT-0013-2017. Kensington School**

**Staff Report for the January 9, 2018, Board of Supervisors Public Hearing**

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**SUMMARY FACTS**

Applicant: Ms. Rachel Salmon  
Land Owner: Hickory Neck Episcopal Church  
Proposal: A pre-school and child development center to serve up to 76 children with seven employees. Day-care and child-care centers are a specially permitted use on property zoned A-1.  
Location: 8300, 8320, and 8340 Richmond Road  
Tax Map/Parcel No.: 1240100010, 1240100010A, 1240100010B, 1240100010C  
Project Acreage: +/- 12.58 acres  
Zoning: A-1, General Agricultural  
Comprehensive Plan: Low Density Residential  
Primary Service Area: Inside  
Staff Contact: W. Scott Whyte, Senior Landscape Planner II

**PUBLIC HEARING DATES**

Planning Commission: December 6, 2017, 7:00 p.m.  
Board of Supervisors: January 9, 2018, 5:00 p.m.

**FACTORS FAVORABLE**

1. The proposal is generally compatible with surrounding zoning and development.
2. With the proposed conditions, staff finds the proposal consistent with the recommendations of the Comprehensive Plan adopted in 2015, "*Toward 2035: Leading the Way.*"
3. The Economic Development chapter of the Comprehensive Plan encourages the creation of new and retention of existing small businesses (Goal ED 1.2).

**FACTORS UNFAVORABLE**

With the attached Special Use Permit (SUP) conditions, staff does not find any unfavorable factors.

**SUMMARY STAFF RECOMMENDATION**

Staff recommends the Board of Supervisors approve this SUP application, subject to the attached conditions.

**PLANNING COMMISSION RECOMMENDATION**

The Planning Commission voted 6-0 to recommend approval of this application to the Board of Supervisors.

**PROPOSED CHANGES MADE SINCE THE PLANNING COMMISSION MEETING**

A proposed condition requiring VDOT review of a turn lane analysis has been completed. VDOT concurred that since the day care and church operate primarily at different times on different days, it does

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*This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.*

**SPECIAL USE PERMIT-0013-2017. Kensington School**

**Staff Report for the January 9, 2018, Board of Supervisors Public Hearing**

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not appear that any turn lane improvements are warranted at this time. Accordingly, this condition no longer appears in the attached resolution.

A proposed condition requiring a Phase I archaeological study be conducted has been completed. The Virginia Department of Historic Resources has reviewed the study and finds that the level of effort documented in the report is sufficient and that no further archeological investigations are warranted. Accordingly, this condition no longer appears in the attached resolution.

Staff has clarified the lighting condition (proposed condition #5) to clarify that the condition applies only to new lighting that may be installed on the property; it does not apply to existing lighting.

**PROJECT DESCRIPTION**

The Kensington School was established in 2010 and now serves over 250 families in James City County and surrounding areas from its existing location at 3435 John Tyler Highway. The Kensington School now proposes to expand by adding a second location. The proposal is to establish the second location at 8340 Richmond Road where Hickory Neck Church is located.

Kensington School proposes to serve up to 76 children at this location. The age of the children ranges from 6 weeks to 5 years old. The hours of operation are proposed to be 7 a.m.-6 p.m., Monday-Friday. Drop-off hours are 7-9 a.m. and pick-up hours are 4-6 p.m. The drop-off and pick-up schedule is modeled after their current location’s schedule, which has been applied for many years.

The total square footage of the proposed modular building is approximately 4,230 square feet. In the narrative the applicant provided, the school proposes to begin operating in the modular

building and then, at some point in the future, they would construct and move into an expansion of the church building. Such a move and expansion would be reviewed in a subsequent Special Use Permit amendment.

Currently, 49 parking spaces exist onsite adjacent to the proposed location of the modular building. A day care center that serves 76 children with seven employees would be required to provide one space for every 4 children and one space for each employee for a total of 26 required parking spaces.

The Pedestrian Accommodation Plan calls for a multi-use path to be constructed on this side of Richmond Road. Section 24-35 of the Zoning ordinance requires this path to be provided at the site plan stage and conform to the construction standards of 24-35 (b).

**PLANNING AND ZONING HISTORY**

The modern worship facility for the church was constructed in 2005, and no current Special Use Permits or Rezonings have been applied to this property.

**SURROUNDING ZONING AND DEVELOPMENT**

- Surrounding properties to the east, south, and west are zoned A-1, General Agricultural. Properties to the north are zoned R-2, General Residential.
- Surrounding properties to the north contain single-family residential dwellings and multi-family dwellings. Properties to the south and east are agricultural use. Property to the west across Richmond Road is single family residential dwellings.

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**COMPREHENSIVE PLAN**

- The site is designated by the Comprehensive Plan adopted in 2015, *“Toward 2035: Leading the Way”* as Low Density Residential. Parcels to the south and to the west across Richmond Road are designated General industry.
- Recommended Uses in Low Density Residential include schools, places of public assembly, very limited commercial, single family homes and community oriented facilities. Schools are listed as a Group 2 recommended use. Group 2 uses should apply the following standards (staff comments are in italics):
  - i. Complement the residential character of the area: *With schools being a recommended use in Low Density Residential areas, staff finds the proposed use consistent with Toano’s residential character.*
  - ii. Have traffic, noise, lighting, and other impacts similar to surrounding residential uses: *This project will have moderate daily traffic and there is an existing westbound right turn lane entering the property. All lighting and noise mitigation shall be addressed during plan review. Considering the size of the three parcels, staff finds that there would be no lighting and noise impacts.*
  - iii. Generally be located on collector or arterial roads at intersections: *The property is on an arterial road and close to Anderson’s Corner.*
  - iv. Act as a transition use between residential and commercial areas or, if located within a residential community, serve to complement the residential character of the area rather than altering it: *The school is proposing to operate out of a large church property that is adjacent to but not within a residential area. Staff finds the addition*

- v. *of a modular building should not alter the residential character of the adjacent neighborhood.*
- v. Provide adequate screening and buffering to protect the character of nearby residential areas and generally intended to support the residential area in which they are located: *Screening and buffering shall be analyzed during the plan review process and the provision of quality child-care and pre-school services help support the nearby residential areas.*
- Provision of quality child-care and pre-school services is consistent with Goal Nos. 2.1 and 2.4 in the Population Needs Chapter of the Comprehensive Plan.
- Staff finds that the proposed commercial use of a day-care compatible with the rural character of the Toano area and would support the creation and retention of local small businesses and workforce housing in keeping with the intent of the Economic Development Section of the Comprehensive Plan.
- With the proposed SUP conditions, staff finds that any impacts to the right-of-way or adjacent properties would be mitigated, and that the proposed 4,230 square foot school is consistent with the Comprehensive Plan.

**PUBLIC IMPACTS**

Anticipated Impact on Public Facilities and Services:

- Environmental. Stormwater management shall utilize the existing BMP located at the rear of the property and/or install a new stormwater facility to treat run off from the proposed 4,230 square foot modular building. At the site plan stage, the Stormwater and

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*This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.*

**SPECIAL USE PERMIT-0013-2017. Kensington School**

**Staff Report for the January 9, 2018, Board of Supervisors Public Hearing**

Resource Protection division will review the application and offer feedback on whether the existing BMP is adequate and if additional protections are needed.

- Cultural/Historic In 2005 a Phase I Archaeology report was conducted on the property, but was not fully reviewed by the Department of Historic Resources (DHR) at that time. DHR has reviewed the 2005 report, and have indicated that no further work would need to be done in accordance with proposed Special Use Permit condition # 3.
- Schools/Fire/Utility. With the use of a day-care for children between the ages of 6 weeks and 5 years, no impact on the public school system is expected. This area of the County is served by Fire Station 1 on Forge Road in Toano. The parcel is within the PSA and is served by both public water and sewer.
- Streets. The proposal is expected to generate moderate daily traffic at the two-hour drop-off and pick-up periods each morning and afternoon. Morning drop-off is 7-9 a.m. and afternoon pick-up is 4-6 p.m. The drop-off and pick-up schedule has been used by the applicant for many years at the existing Kensington School location, and according to the applicant, it has worked well. This section of Richmond Road was operating at Level of Service (LOS) A-C as of 2010, and is projected to continue to operate at LOS C or better through 2034. VDOT has reviewed the proposal and has also reviewed a taper- and turn-lane warrant analysis for the front entrance on Richmond Road VDOT has concurred that it does not appear that any turn lane improvements are warranted at this time.

**PROPOSED SUP CONDITIONS**

- Proposed conditions are provided in Attachment No. 1.

**STAFF RECOMMENDATION**

Staff recommends the Board of Supervisors approve this application, subject to the attached conditions.

WSW/gt  
SUP13-17Kensington

Attachments:

1. Resolution
2. Location Map
3. Master Plan
4. Building Elevations
5. Applicant Narrative
6. Unapproved minutes of the December 6, 2017, Planning Commission Meeting

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*This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.*

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*This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.*

## RESOLUTION

### CASE NO. SUP-0013-2017. KENSINGTON SCHOOL

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (“SUP”) process; and

WHEREAS, Ms. Rachel Salmon has applied for an SUP to allow a day-care/child-care center on property zoned A-1, General Agricultural located at 8300, 8320, and 8340 Richmond Road and further identified as JCC Tax Parcel Numbers 1240100010, 1240100010A, 1240100010B, respectively, and a parcel without an address identified as JCC Tax Parcel Number 1240100010C; and

WHEREAS, the proposed development is depicted on the Master Plan, stamp dated October 25, 2017, and entitled “The Kensington School at Hickory Neck Church”; and

WHEREAS, a public hearing was advertised, adjoining property owners notified and a hearing conducted on Case No. SUP-0013-2017; and

WHEREAS, the Planning Commission, following its public hearing on December 6, 2017, recommended approval of the application by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. SUP-0013-2017, as described herein, subject to the following conditions:

1. Master Plan: This Special Use Permit (the “SUP”) shall be valid for the operation of a day care and child care center (the “School”) on properties located at 8300, 8320, and 8340 Richmond Road and further identified as JCC Tax Parcel Numbers 1240100010, 1240100010A, 1240100010B, respectively, and a parcel without an address identified as JCC Tax Parcel Number 1240100010C (together, the “Property”). Development and use of the Property shall be generally in accordance with and bound by the master plan entitled “The Kensington School at Hickory Neck Church” (the “Master Plan”) with deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended. The School shall be located in the modular building as shown on the Master Plan.
2. Enrollment: Enrollment of the School shall be limited to seventy-six (76) children. On or before July 1 of each year, the School shall provide the Zoning Administrator, or her designee, school enrollment data for the previous school year and projected school enrollment data for the upcoming year. The school enrollment data shall include, at a minimum, the total number of children enrolled, and the number of staff employed.
3. BMP Repair and Maintenance: With any newly proposed impervious cover for this site, the BMP shall be reevaluated. If the evaluation determines that the BMP is inadequate for the expansion, or not functioning properly, proper maintenance, repairs, or upgrades as determined by the Director of Stormwater and Resource Protection may be required and the owner shall enter into a new maintenance agreement with the county prior to the issuance of a Certificate of Occupancy.
4. Architectural Review: Prior to final site plan approval, architectural elevations, building materials, and colors shall be submitted to the Director of Planning or his designee for review and approval. The

purpose of this condition is to ensure that the proposed structure on the Property is uniform and compatible in terms of design, scale, materials, and colors with other structures on site, and consistent with the elevation titled "The Kensington School #2 Building Elevations" dated November 15, 2017.

- 5. Exterior Lighting: All new exterior light fixtures, including new building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. All new light poles shall not exceed twenty (20) feet in height unless otherwise approved by the Director of Planning. A lighting plan for any new lighting indicating no glare outside the boundaries of the Property shall be submitted to and approved by the Director of Planning or his designee prior to site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the property line or any direct view of the lighting source from the adjoining properties.
- 6. Dumpsters/HVAC Units: All new dumpsters and heating and cooling units visible from any public street or adjoining property shall be screened from view with landscaping or fencing approved by the Director of Planning or his designee prior to final site plan approval.
- 7. Commencement of Use: A permanent Certificate of Occupancy for the School shall be obtained within thirty-six (36) months from the date of approval of this SUP, or this SUP shall be void.
- 8. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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Ruth M. Larson  
Chairman, Board of Supervisors

ATTEST:

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Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
ICENHOUER	_____	_____	_____

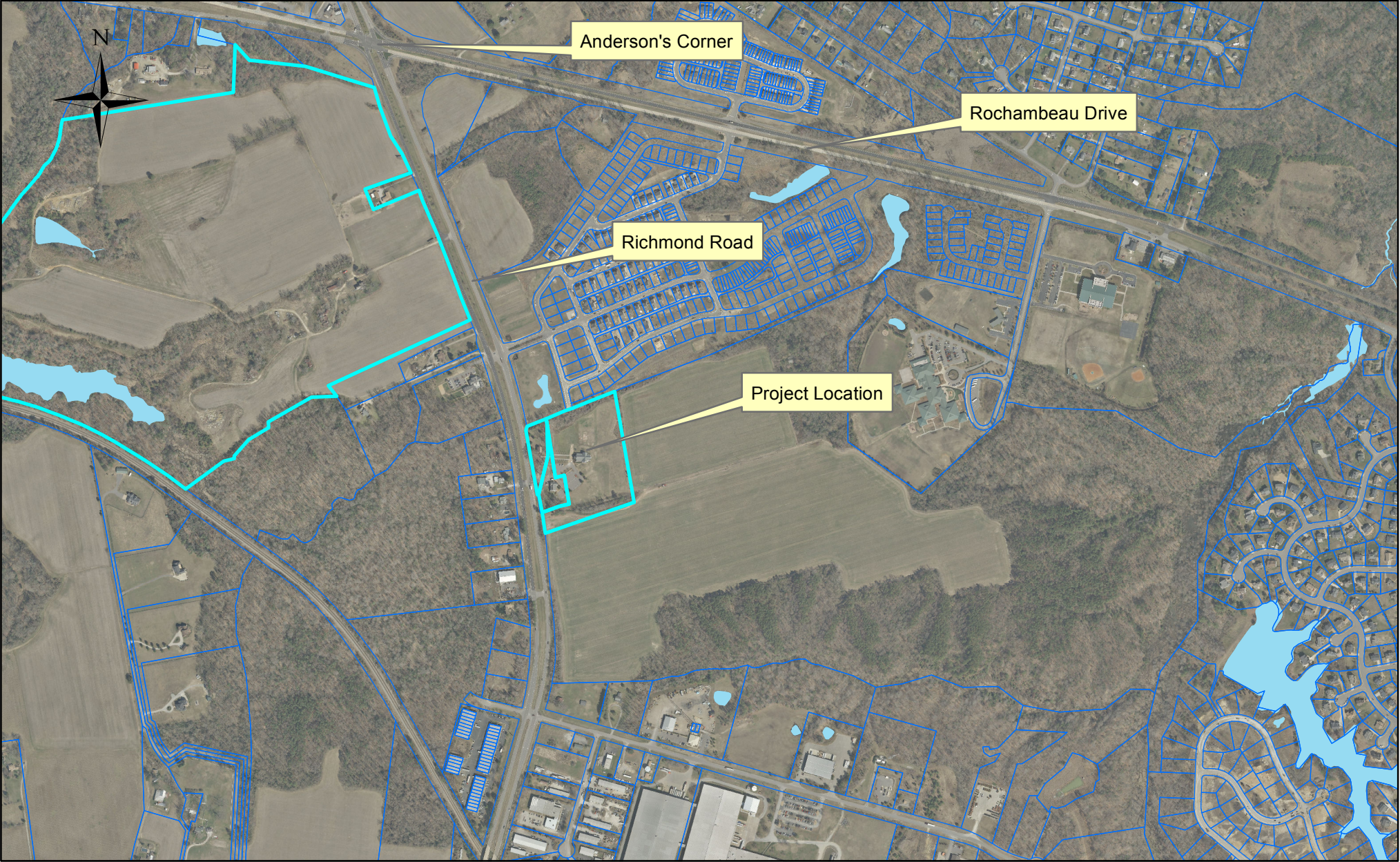
Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January, 2018.

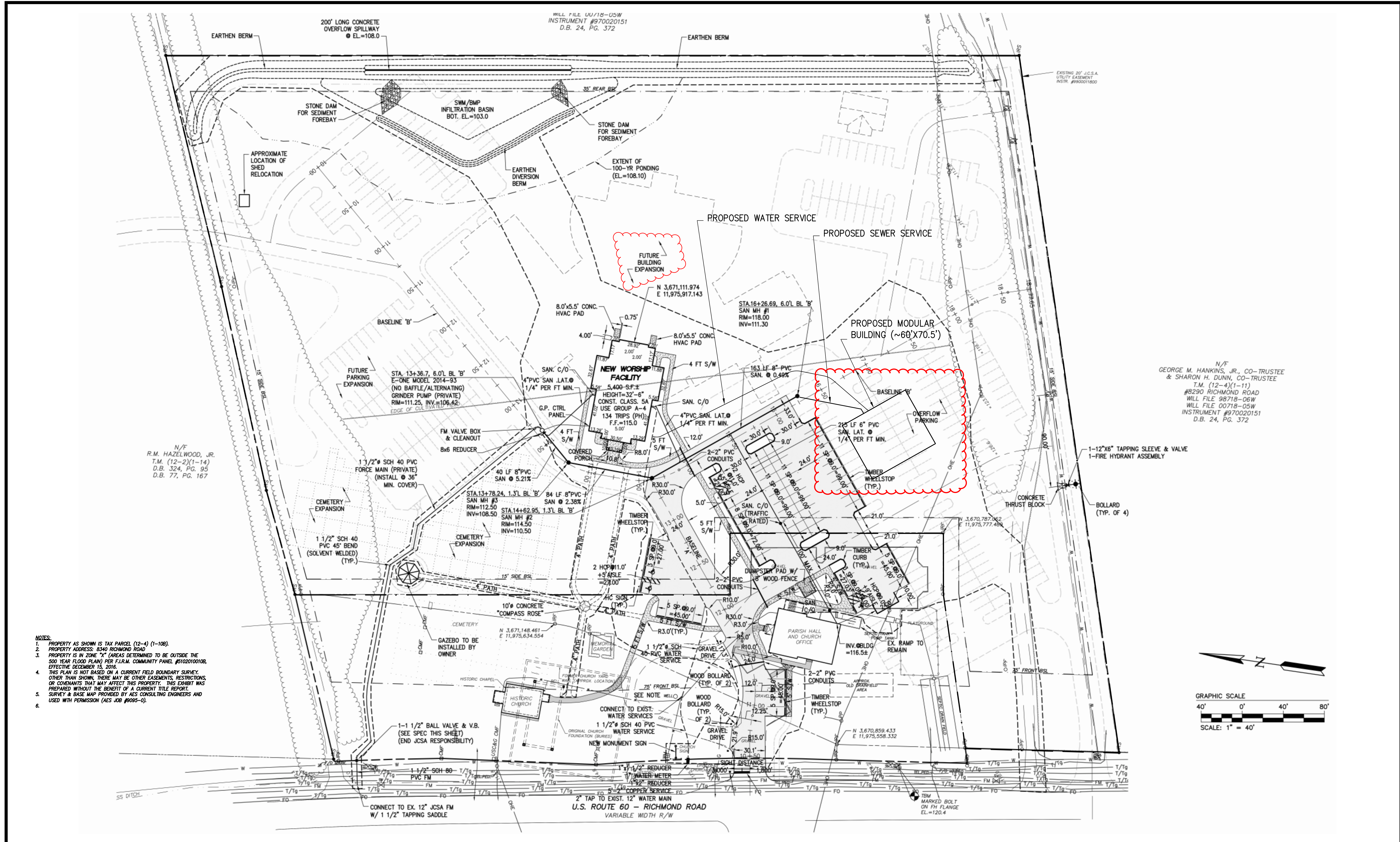
SUP-13-17Kensington-res



SUP-0013-2017

8340 Richmond Road, The Kensington School



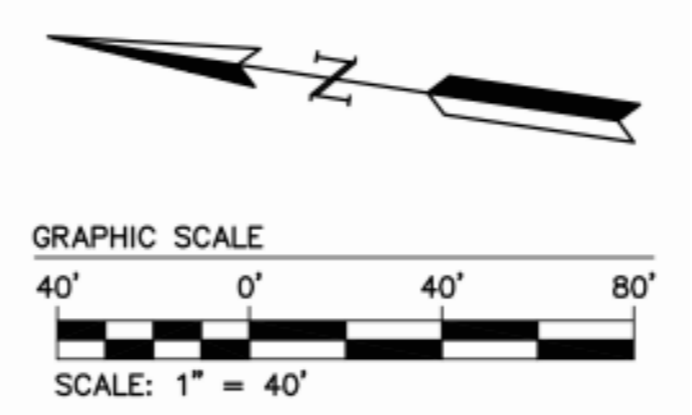


WILL FILE 00/18-05W  
INSTRUMENT #970020151  
D.B. 24, PG. 372

N/F  
GEORGE M. HANKINS, JR., CO-TRUSTEE  
& SHARON H. DUNN, CO-TRUSTEE  
T.M. (12-4)(1-11)  
#B290 RICHMOND ROAD  
WILL FILE 98718-06W  
WILL FILE 00718-05W  
INSTRUMENT #970020151  
D.B. 24, PG. 372

N/F  
R.M. HAZELWOOD, JR.  
T.M. (12-2)(1-14)  
D.B. 324, PG. 95  
D.B. 77, PG. 167

- NOTES:**
1. PROPERTY AS SHOWN IS TAX PARCEL (12-4) (1-10B).
  2. PROPERTY ADDRESS: 8340 RICHMOND ROAD
  3. PROPERTY IS IN ZONE "M" (AREAS DETERMINED TO BE OUTSIDE THE 500 YEAR FLOOD PLAIN) PER F.L.R.M. COMMUNITY PANEL #5102010010B, EFFECTIVE DECEMBER 15, 2016.
  4. THIS PLAN IS NOT BASED ON A CURRENT FIELD BOUNDARY SURVEY. OTHER THAN SHOWN, THERE MAY BE OTHER EASEMENTS, RESTRICTIONS, OR COVENANTS THAT MAY AFFECT THIS PROPERTY. THIS EXHIBIT WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT.
  5. SURVEY & BASE MAP PROVIDED BY AES CONSULTING ENGINEERS AND USED WITH PERMISSION (AES JOB #9095-0).
  - 6.



Rev.	Date	Description	Revised By
1	11/24/14	REVISED FROM 3 TO 4 BEDROOM, OWNER, & PER FIRM CHANGE	ABS



Small Engineering, LLC  
108 Ewell Place  
Williamsburg, VA 23188  
(757) 810-1755  
5smallhokies@gmail.com

CONCEPTUAL PLAN FOR SPECIAL USE PERMIT  
**THE KENSINGTON SCHOOL  
AT HICKORY NECK CHURCH**  
OWNER: HICKORY NECK CHURCH OF BLISSLAND PARISH  
STONEHOUSE DISTRICT JAMES CITY COUNTY VIRGINIA

Project Contacts: ABS	
Project Number: 2017-004	
Scale:	Date:
1"=40'	10/25/2017
Sheet Number	
<b>1 OF 1</b>	

The Kensington School #2  
Building Elevations



OCT 25 2017

RECEIVED

## The Kensington School at Hickory Neck Church

### Description

The Kensington School preschool and child development center currently operating on John Tyler Highway in James City County is proposing a new school on the grounds of Hickory Neck Church in Toano. The school is being proposed to provide needed child care at the upper end of James City County. Hickory Neck Church is partnering with the Kensington School based on an informal needs study for child care in the upper county recently completed by the Vestry of the church. The proposed school will initially be housed in a modular building with approximate dimensions of 60'x70.5'. After expansion of Hickory Neck Church in the future, the center will move into the expanded space to be concurrent with the church and the modular building removed. The Kensington School will initially provide care for 25-35 children at the site and ranging from infants up to pre-kindergarten aged children. Virginia Department of Social Services regulations limit the occupancy of day care centers based on the usable square footage (76 children for modular building). The school's normal operations are Monday through Friday from 7AM – 6PM.

The Hickory Neck Church campus is ~12.5 acres but is currently split into 4 separate parcels. The largest parcel, consisting of 9.97 acres and located at 8340 Richmond Road, is the site of the new chapel at Hickory Neck Church and will also serve as the site for The Kensington School. The parcel is zoned A1, General Agricultural, which requires a Special Use Permit for Day Care Centers.

### Traffic

The Kensington School will utilize the existing entrance to the church off of Richmond Road (US Route 60). Richmond Road is a 4 lane divided highway and a median crossover is at the Hickory Neck Church entrance, which also has a right turn lane and taper. Attached traffic analysis memo from Small Engineering, LLC dated October 23, 2017 indicate that no additional turn lane improvements are necessary.

The Level of Service (LOS) for this segment of Richmond Road is LOS A-C through 2034 based upon data in Appendix D (pp. 65) of *James City County/ Williamsburg/York County Comprehensive Transportation Study* by the Hampton Roads Transportation Planning Organization (HRTPO) (March 2012). The segment between Route 199 and Olde Towne Road is LOS A-C and carries 35,000 VPD in 2034 (Table 8, pp. 28). The segment of Richmond Road along the site frontage carries 15,000 VPD according to 2016 counts from VDOT. The LOS will not be degraded with the addition of 333 trips generated by The Kensington School at maximum capacity.

### Utilities

Water and sewer utilities are expected to connect internally to the site to the existing services of Hickory Neck Church. The church is currently served by a duplex grinder pump that connects to the 12" JCSA force main along Richmond Road. The gravity sewer in White Hall was sized to handle the ultimate capacity of the Church and a stub out provided at the property line with the construction of Section 2. The school is expected to generate an average daily flow of approximately 1,140 gpd or approximately 4.75 gpm peak. The existing private water and sewer system has adequate capacity to serve the proposed use. Electrical service will be provided by separate meter to the existing overhead power facilities located within the property and will be disconnected upon expansion of the Church's facilities.

### Stormwater

Stormwater management will utilize the existing BMP located at the rear of the church property and/or will install a new SWM facility to treat the runoff from the proposed 4,230 SF modular building. Final design at site plan review will conform to the Virginia Runoff Reduction Method (VRRM) and meet current stormwater regulations.

### Historic and Archaeological Study

A Phase I Archaeology study was performed in 2005. The study was provided to JCC and VDHR as part of the site plan submission for the New Worship Facility at Hickory Neck Church (SP-0074-2005). No sites beyond the historic church property were found.

### Environmental Inventory

An environmental inventory was provided with the 2005 site plan for the New Worship Facility at Hickory Neck Church (SP-0074-2005).

### Conceptual Master Plan

A conceptual plan is included to show the approximate location of the proposed 4,230 SF modular building. The eventual expansion of the new chapel is also approximately shown on the plan as dashed.

### Supplemental Information

The proposed modular structure will be located as shown on the attached master plan. Perimeter vegetation as shown will remain to screen the structure from Richmond Road and the adjacent neighborhood of White Hall. Elevations from the modular structure manufacturer are enclosed with this submission to comply with Board of Supervisors policy. Note that the green color of the roof provided with the image of a similar structure is not proposed at the site. The proposed structure is to be a uniform off-white color to match the surrounding buildings.

October 23, 2017

Ms. Rachel K. Johnston Salmon  
The Kensington School  
3435 John Tyler Highway  
Williamsburg, Virginia 23185

**RE: Traffic Analysis**  
**The Kensington School at Hickory Neck**  
**8300 Richmond Road, Toano, VA 23168**  
**Project No. 2017-004**

Dear Ms. Salmon:

Please let this letter serve as the traffic analysis required with submission of a Special Use Permit (SUP) application with James City County for the above referenced project. The address is the current site of Hickory Neck Episcopal Church and consists of 4 separate parcels comprising approximately 12.5 acres north of Toano, Virginia zoned A1, general agricultural district. It is your intention to operate a day care center for infants up to pre-school age children on the site on weekdays throughout the year. While your initial estimate is to care for 25-35 children at the school, up to 76 children could be cared for at the site based upon Virginia Department of Social Services guidelines. Although houses of worship are permitted by right in A1 zoning, day care centers are permitted only by issuance of an SUP by the James City County Board of Supervisors.

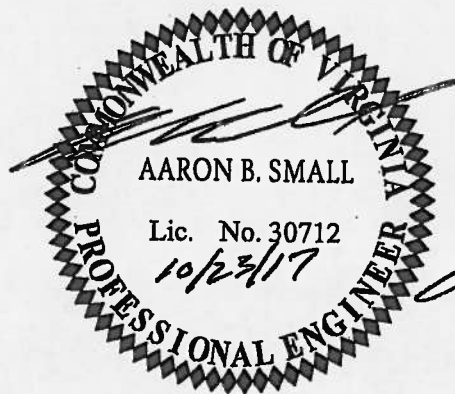
The site is located on US Route 60 - Richmond Road, a 4-lane divided highway with a posted speed of 55 mph. A median crossover is located at the existing entrance to the church. An existing right turn lane for northbound traffic exist with 100 ft of storage and a 100 ft taper. No left turn lane is provided for southbound traffic entering the church property. The latest volume estimates (2016 VDOT) for this segment of roadway indicate that it has an average annual daily traffic (AADT) of 15,000 VPD, a directional factor, D, of 0.577, and a peak hour factor, K, of 0.089. This equate to a peak hour volume, PHV, of 770 VPH (vehicles per hour). For simplicity, this volume is assumed to be the northbound traffic for the turn lane analysis.

For a Day Care Center (ITE, 9<sup>th</sup> Ed, Land Use 565) serving 76 children on weekdays, traffic generation is as follows:

Scenario	# of Trips	Trips Entering	RT (60%)	LT (40%)
Average Day	333	167	100	67
AM Pk Hour of Adj. St.	61	32	19	13
PM Pk Hour of Adj. St.	62	29	17	12
AM Pk Hour of Generator	62	33	20	13
PM Pk Hour of Generator	64	30	18	12

The worst case for vehicles turning into the entrance is 20 right turns and 13 left turns. This is with the assumption that 60% of the traffic comes from the south (towards Toano) and the remaining traffic comes from Anderson's Corner, the intersection of Route 60 and Route 30. Figures 3-27 and 3-3 from the VDOT Road Design Manual Appendix F are used for determining right and left, respectively, turn lane warrants on 4 lane divided highways. Attached are plots of these figures with using the peak hour turns and the peak hour volume of Richmond Road. As shown on the figures, a left turn lane is not warranted and a right turn taper is warranted. Because the existing 100 ft storage and 100 ft taper for right turns is equivalent to a 200' right turn taper at 55 MPH design speed, **no improvements are required.**

One other calculation was performed to provide an estimate of the maximum number of children that could be served before a left turn lane would be warranted. Right turn lane warrants were not reviewed for a capacity limit as a right turn lane already exists at the entrance and is not the critical characteristic. This "trigger" occupancy ignores other constraints on the site such as square footage, parking, utilities, etc. which could limit the occupancy further. To simplify the calculation, we will assume the volume on Richmond Road is 800 VPH. The warrant for a 4-lane divided highway is approximately 30 left turns. Back calculating from the AM Peak Hour and assuming a more conservative 50/50 split for NBL/SBL entering the site, this equates to 112 total AM peak trips being created by 140 students. This population represents the maximum number of students that could be served before the left turn lane warrants are met.



Respectfully,

Small Engineering, LLC

Aaron B. Small, P.E.  
5smallhokies@gmail.com

**Enclosures:**

1. ITE 9<sup>th</sup> Ed. Trip Generation Charts for Use 565 – Day Care Center
2. Fig. 3-27 (RT Lane Warrant) from Appendix F, VDOT RDM
3. Fig. 3-3 (LT Lane Warrant) from Appendix F, VDOT RDM

**References:**

"Land Use: 565 Day Care Center." *Trip Generation Manual*, Institute of Transportation Engineers (ITE), Washington, D.C., 2012, pp. 1114–1142.

2016 Virginia Department of Transportation Daily Traffic Volume Estimates Including Vehicle Classification Estimates where available Jurisdiction Report 047 for James City County & City of Williamsburg, Virginia Department of Transportation, Traffic Engineering Division, Traffic Monitoring Section in cooperation with U.S. Department of Transportation, Federal Highway Administration, PDF download from [http://www.virginiadot.org/info/2016\\_traffic\\_data\\_by\\_jurisdiction.asp](http://www.virginiadot.org/info/2016_traffic_data_by_jurisdiction.asp), accessed October 11, 2017, pp. 9.

## Land Use: 565 Day Care Center

### Description

A day care center is a facility where care for pre-school age children is provided, normally during the daytime hours. Day care facilities generally include classrooms, offices, eating areas and playgrounds. Some centers also provide after-school care for school-age children.

### Additional Data

#### Peak hours of the generator—

The weekday A.M. and P.M. peak hours of the generator typically coincided with the peak hours of the adjacent street traffic.

Information on approximate hourly variation in day care center traffic is shown in the following table. It should be noted, however, that the information contained in this table is based on a limited sample size. Therefore, caution should be exercised when applying the data. Also, some information provided in the table may conflict with the results obtained by applying the average rate or regression equations. When this occurs, it is suggested that the results from the average rate or regression equations be used, as they are based on a larger number of studies.



Hourly Variation in Day Care Center Traffic						
Time	Average Weekday*		Average Saturday*		Average Sunday*	
	Percent of 24-Hour Entering Traffic	Percent of 24-Hour Exiting Traffic	Percent of 24-Hour Entering Traffic	Percent of 24-Hour Exiting Traffic	Percent of 24-Hour Entering Traffic	Percent of 24-Hour Exiting Traffic
6 a.m.-7 a.m.	1.4	0.8	0.0	0.0	0.0	0.0
7 a.m.-8 a.m.	15.0	11.8	0.0	0.0	0.0	0.0
8 a.m.-9 a.m.	18.4	15.8	6.0	6.5	4.5	5.0
9 a.m.-10 a.m.	6.9	7.9	2.0	2.2	9.1	0.0
10 a.m.-11 a.m.	3.0	3.0	4.0	4.3	13.6	10.0
11 a.m.-12 p.m.	6.2	4.7	14.0	13.0	4.5	0.0
12 p.m.-1 p.m.	4.0	3.3	2.0	2.2	9.1	10.0
1 p.m.-2 p.m.	2.4	2.6	16.0	8.7	0.0	10.0
2 p.m.-3 p.m.	2.4	2.7	19.0	17.4	0.0	10.0
3 p.m.-4 p.m.	5.9	5.5	2.0	2.2	4.5	10.0
4 p.m.-5 p.m.	8.4	9.1	4.0	2.2	8.1	0.0
5 p.m.-6 p.m.	15.0	17.0	12.0	2.2	18.2	15.0
6 p.m.-7 p.m.	7.8	12.6	4.0	4.3	13.6	5.0
7 p.m.-8 p.m.	1.0	1.5	0.0	2.2	4.5	5.0
8 p.m.-9 p.m.	0.4	0.5	0.0	4.3	0.0	5.0
9 p.m.-10 p.m.	0.6	0.8	4.0	0.0	9.1	5.0
10 p.m.-6 a.m.	0.0	0.5	12.0	28.3	0.0	10.0

Sites ranged in size from 3,000 to 25,000 Square Feet Gross Floor Area and from 52 to 310 students

\* Source numbers - 208, Southern New Hampshire Planning Commission; based on three studies

\* Source numbers - Southern New Hampshire Planning Commission; based on two studies

\* Source numbers - Southern New Hampshire Planning Commission; based on two studies

The sites were surveyed between the mid-1980s and the 2000s throughout the United States.

#### Source Numbers

168, 208, 216, 253, 335, 336, 337, 355, 418, 423, 536, 550, 562, 583, 633, 734

# Day Care Center (565)

Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area  
On #: Sunday

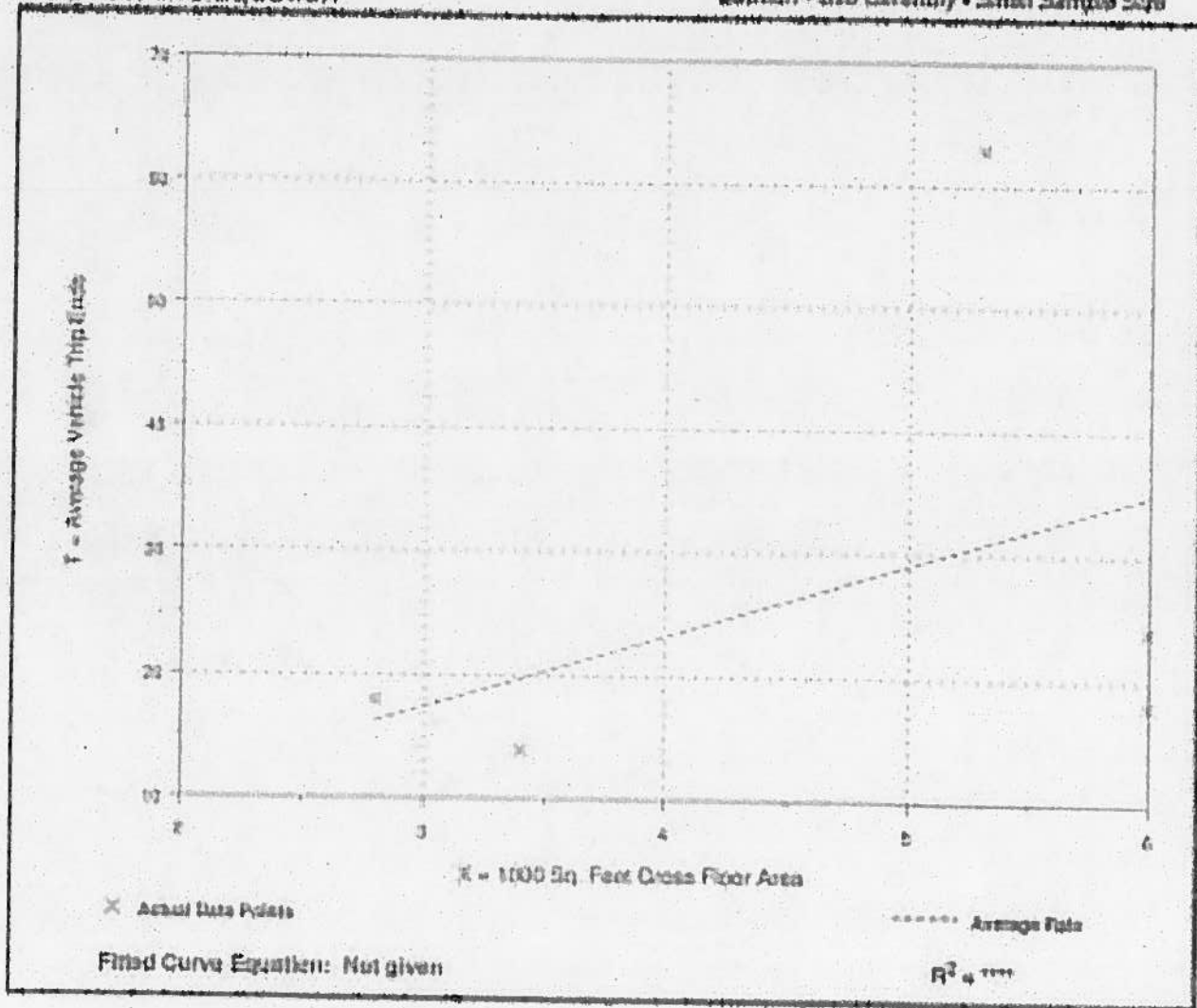
Number of Studies: 5  
Average 1000 Sq. Feet GFA: 5  
Directional Distribution: 50% entering, 50% exiting

## Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
5.83	3.00 - 11.00	4.12

## Data Plot and Equation

*Caution - Use Carefully - Small Sample Size*



# Day Care Center (565)

Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area  
On a: Sunday,  
Peak Hour of Generator

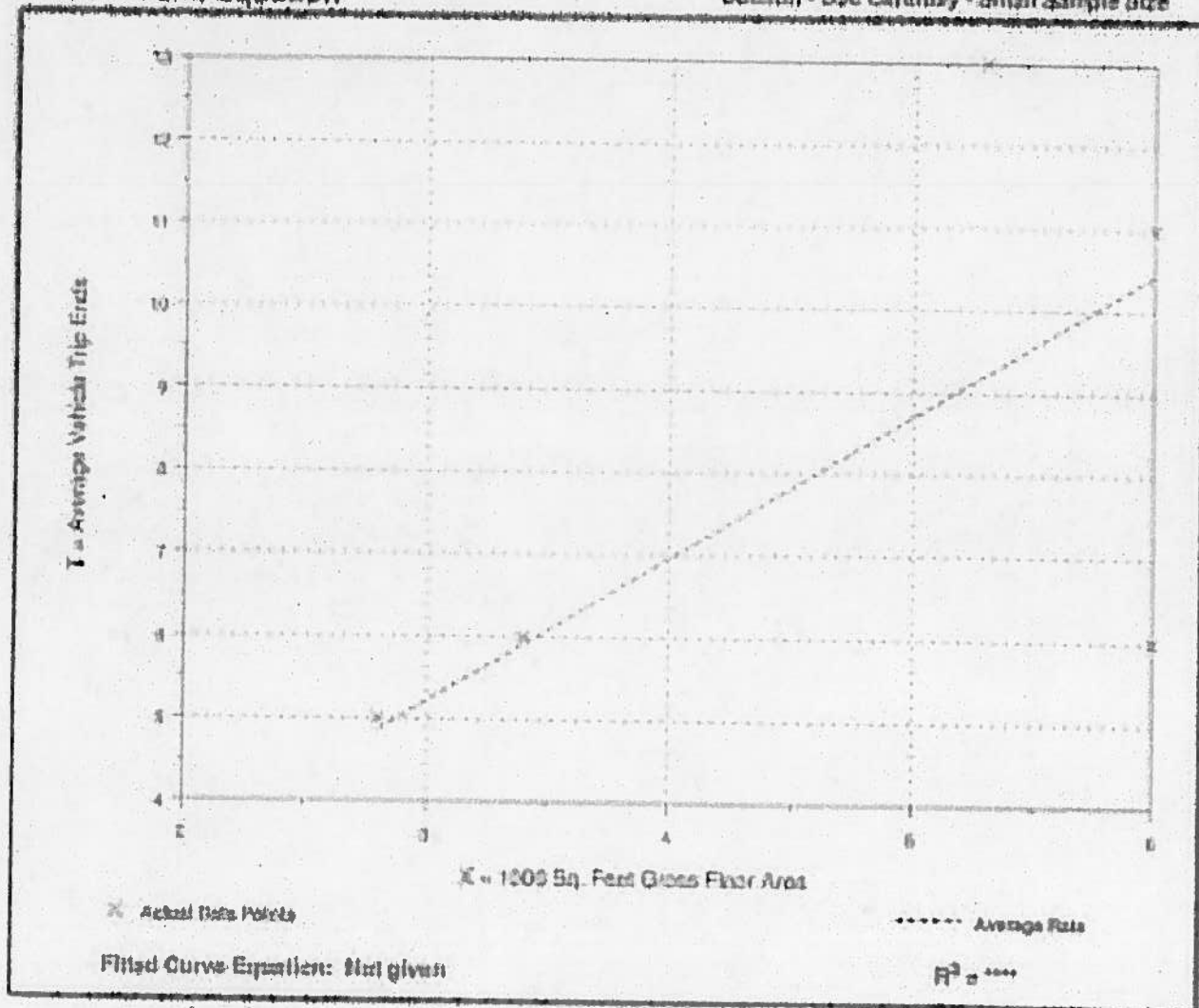
Number of Studies: 5  
Average 1000 Sq. Feet GFA: 5  
Directional Distribution: 54% entering, 46% exiting

## Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
1.74	1.00 - 2.45	1.30

## Data Plot and Equation

*Caution - Use Carefully - Small Sample Size*



# Day Care Center (565)

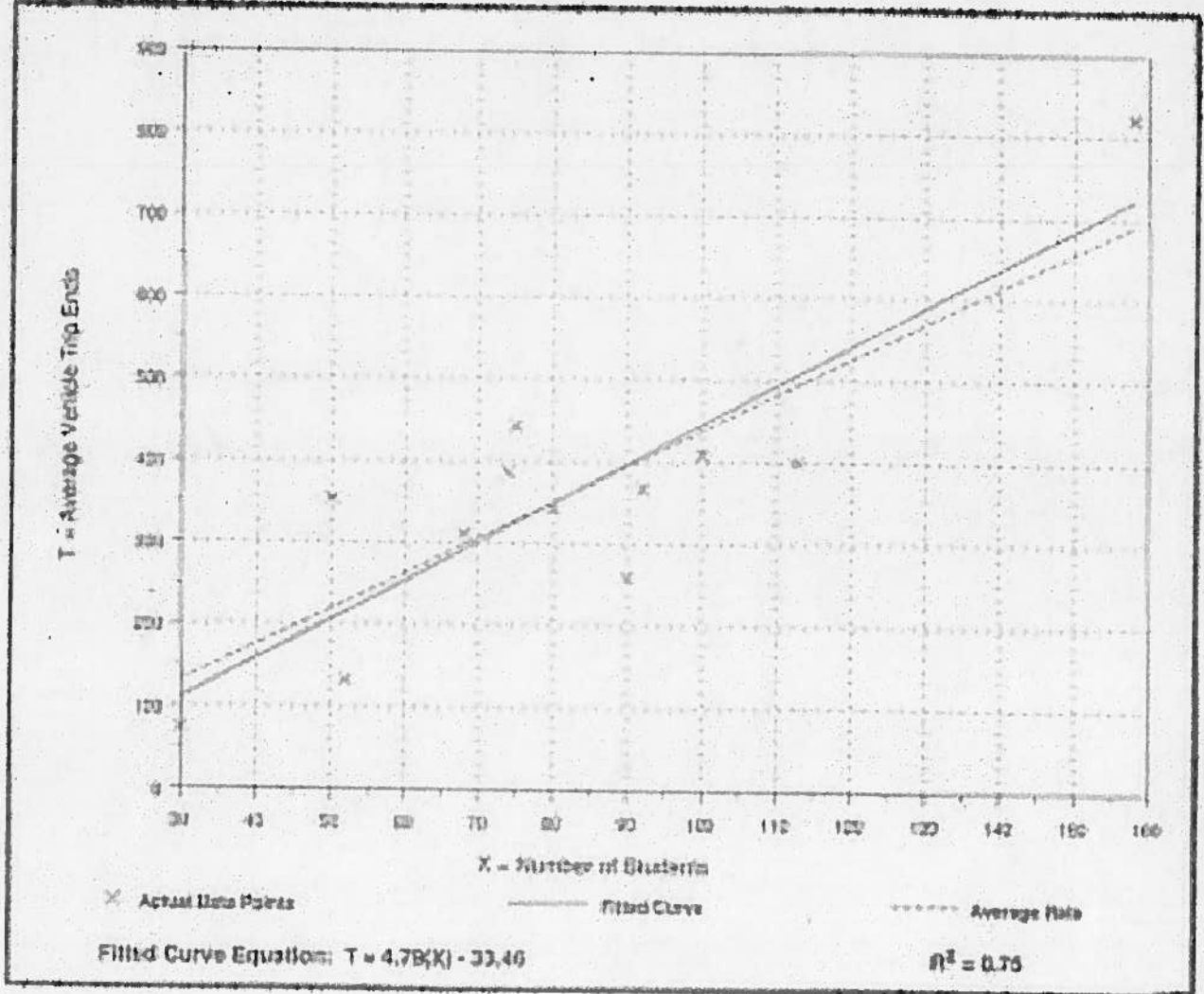
Average Vehicle Trip Ends vs: Students  
On a: Weekday

Number of Studies: 12  
Average Number of Students: 83  
Directional Distribution: 50% entering, 50% exiting

## Trip Generation per Student

Average Rate	Range of Rates	Standard Deviation
4.38	2.50 - 7.05	2.07

## Data Plot and Equation



# Day Care Center (565)

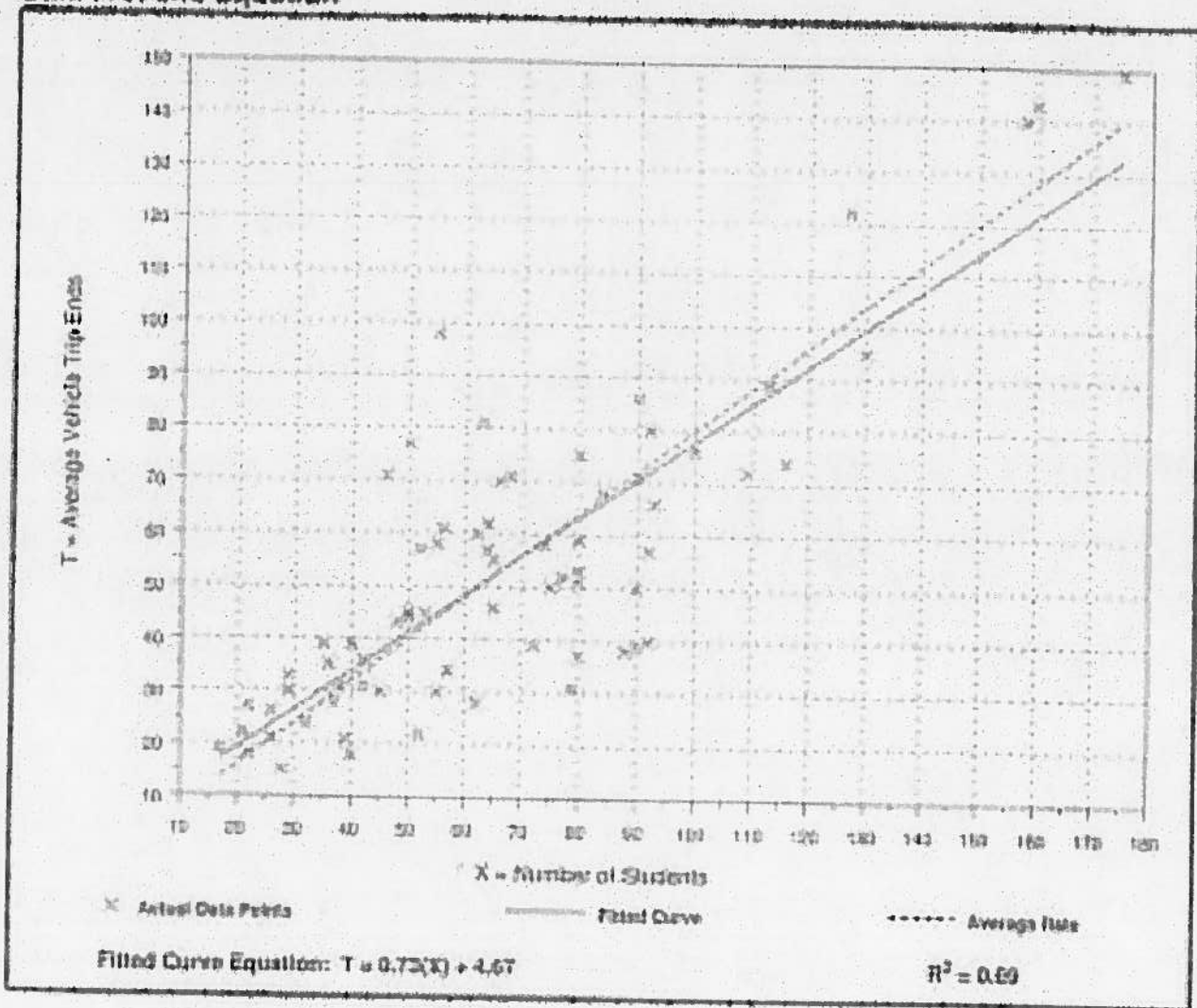
Average Vehicle Trip Ends vs. Students  
On a: Weekday,  
Peak Hour of Adjacent Street Traffic,  
One Hour Between 7 and 9 a.m.

Number of Studies: 71  
Average Number of Students: 67  
Directional Distribution: 53% entering, 47% exiting

## Trip Generation per Student

Average Rate	Range of Rates	Standard Deviation
0.80	0.39 - 1.78	0.52

## Data Plot and Equation



# Day Care Center (565)

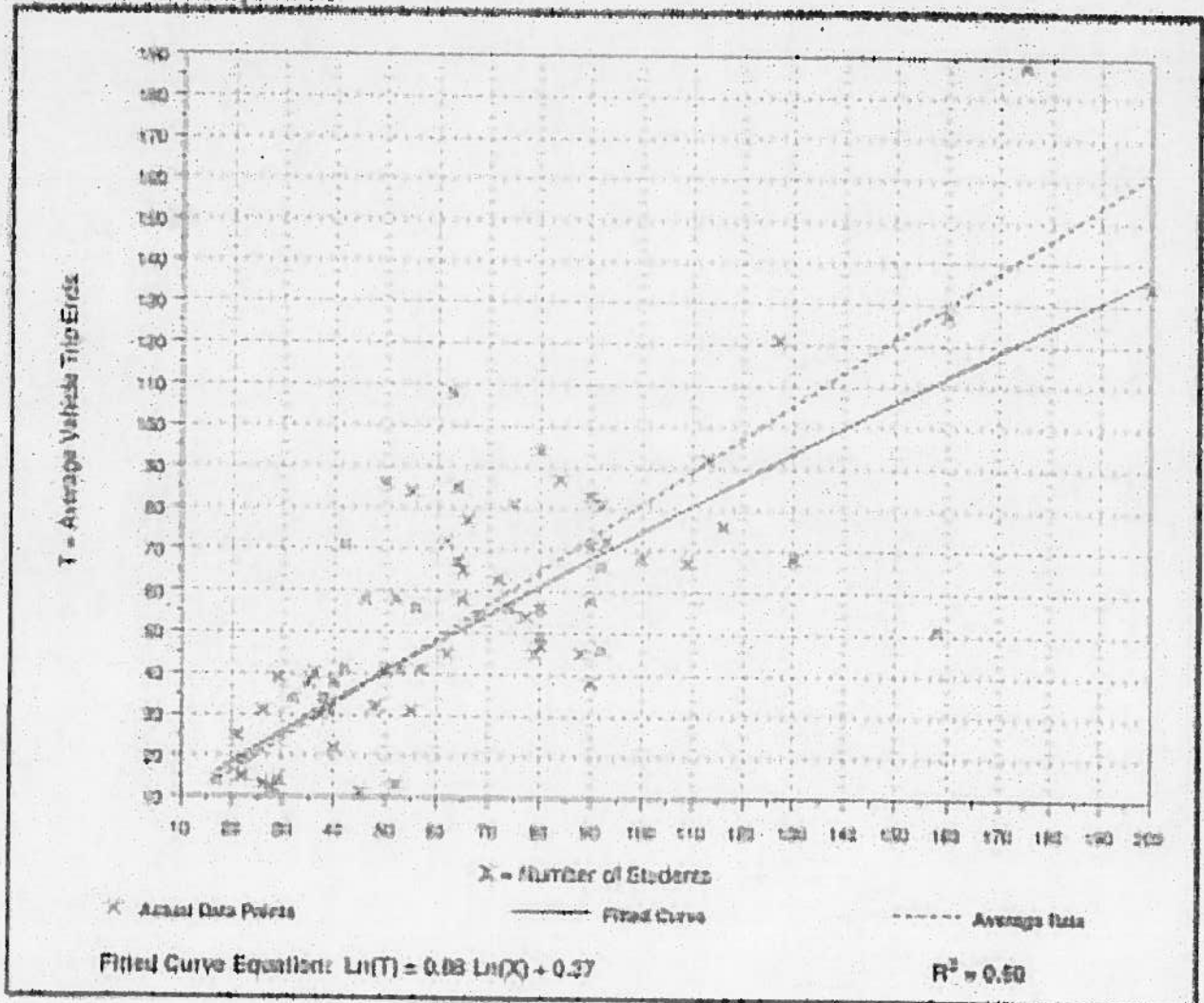
Average Vehicle Trip Ends vs: Students  
 On a: Weekday,  
 Peak Hour of Adjacent Street Traffic,  
 One Hour Between 4 and 6 p.m.

Number of Studies: 72  
 Average Number of Students: 69  
 Directional Distribution: 47% entering, 53% exiting

### Trip Generation per Student

Average Rate	Range of Rates	Standard Deviation
0.31	0.24 - 1.78	0.91

### Data Plot and Equation



# Day Care Center (565)

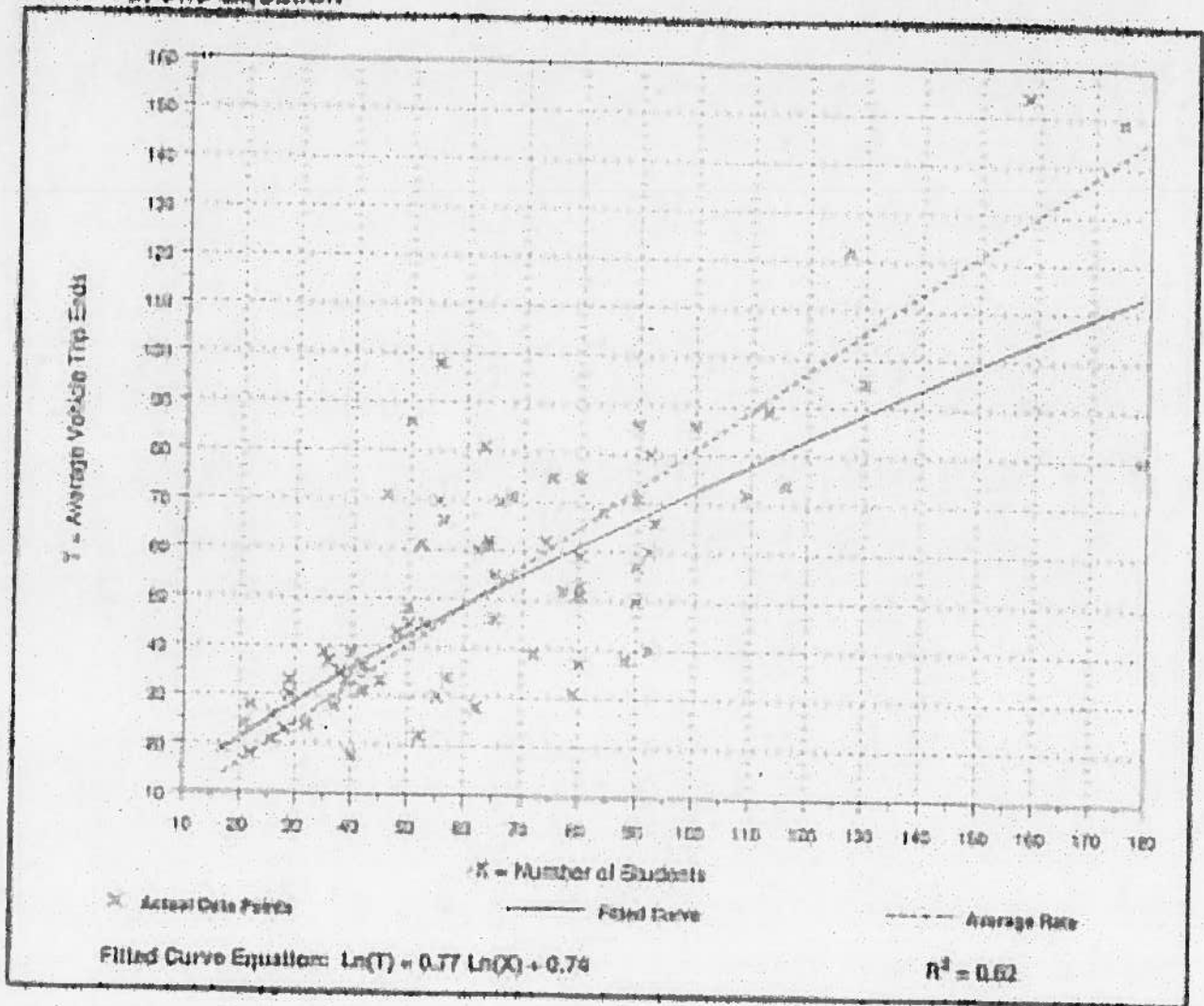
Average Vehicle Trip Ends vs: Students  
On a: Weekday,  
A.M. Peak Hour of Generator

Number of Studies: 71  
Average Number of Students: 67  
Directional Distribution: 53% entering, 47% exiting

## Trip Generation per Student

Average Rate	Range of Rates	Standard Deviation
0.81	0.38 - 1.78	0.93

## Data Plot and Equation



# Day Care Center (565)

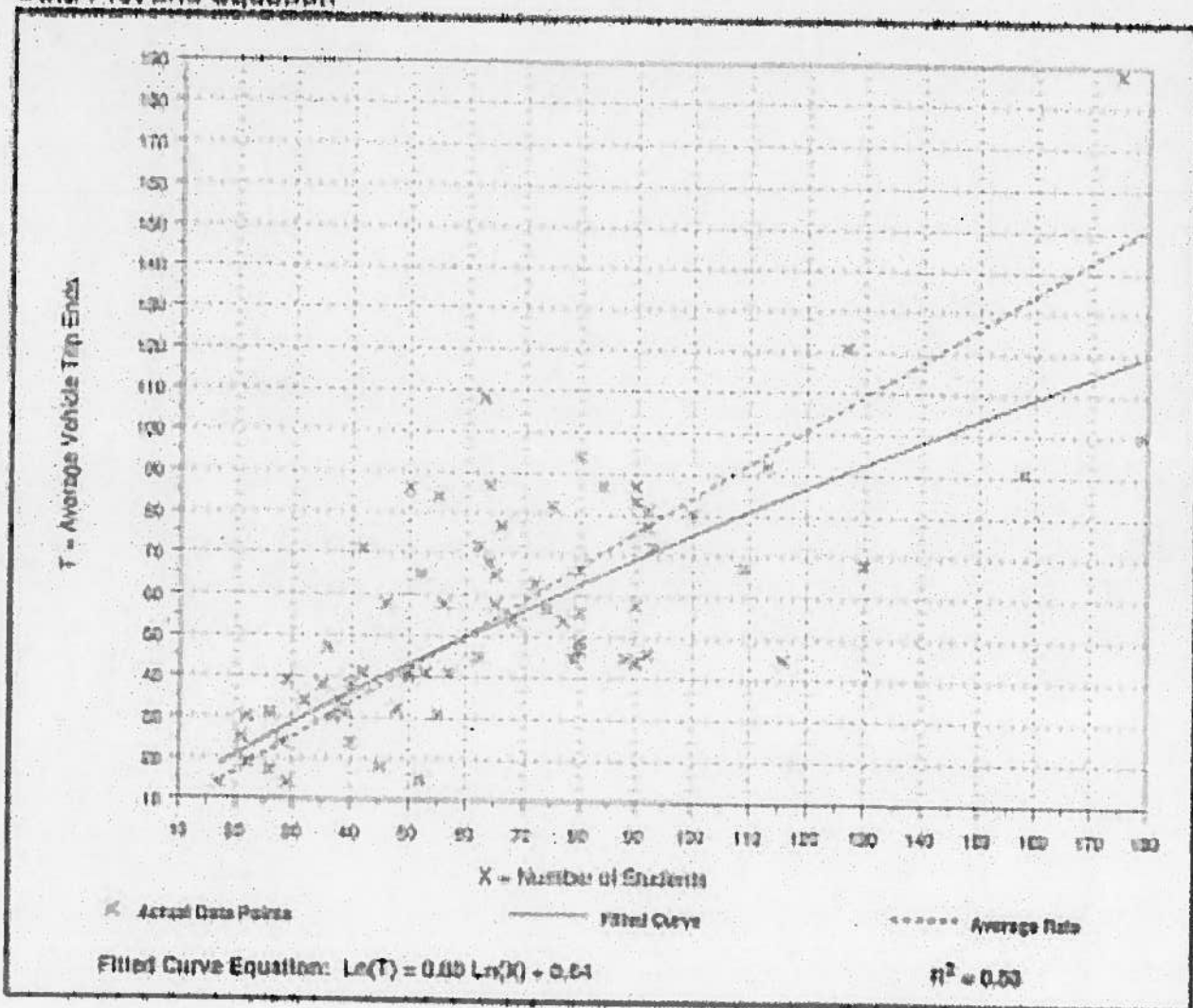
Average Vehicle Trip Ends vs: Students  
On at: Weekday,  
P.M. Peak Hour of Generator

Number of Studies: 71  
Average Number of Students: 67  
Directional Distribution: 47% entering, 53% exiting

### Trip Generation per Student

Average Rate	Range of Rates	Standard Deviation
0.84	0.29 - 1.72	0.96

### Data Plot and Equation





# Day Care Center (565)

Average Vehicle Trip Ends vs: Students  
On a: Saturday

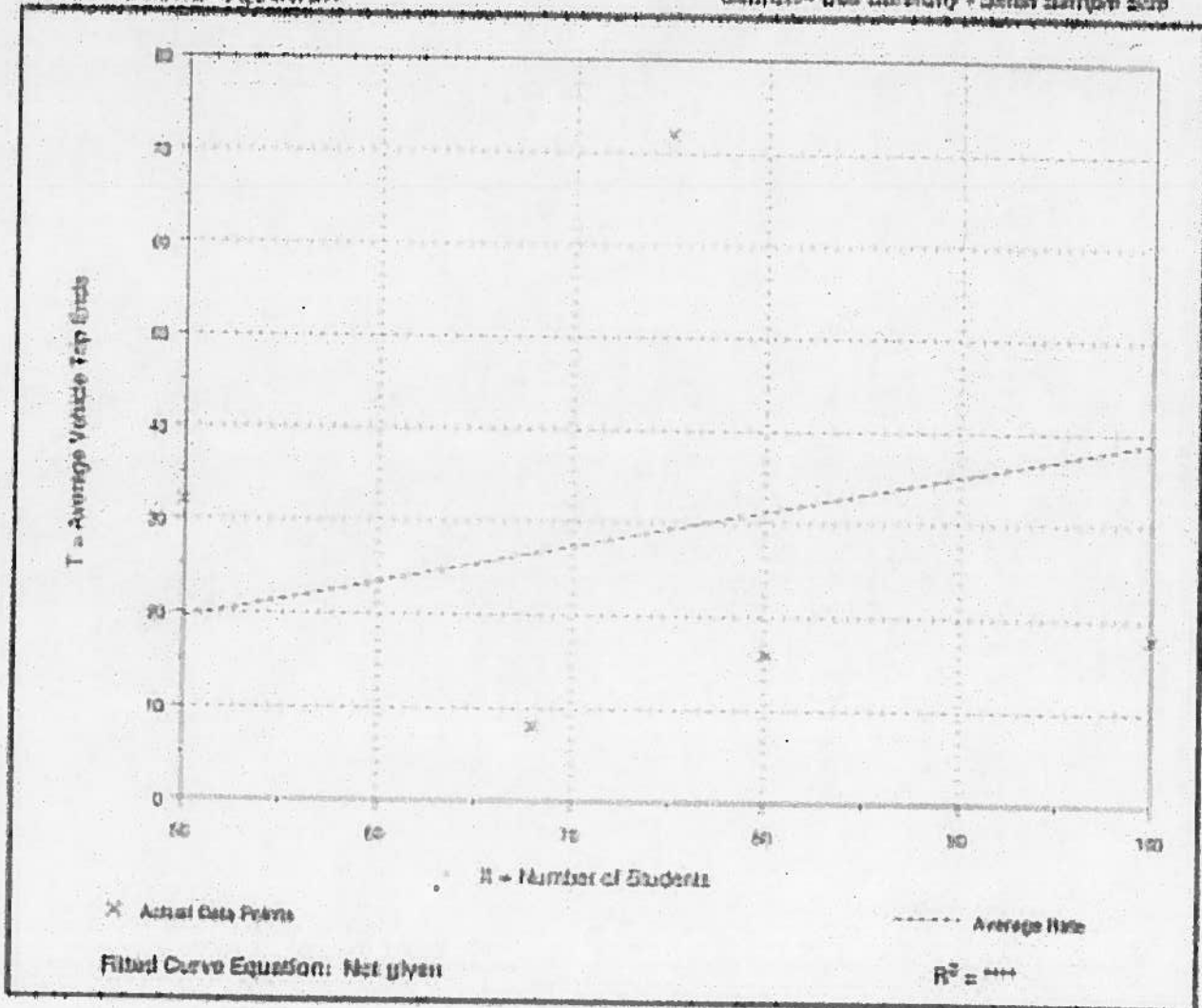
Number of Studies: 5  
Average Number of Students: 75  
Directional Distribution: 50% entering, 50% exiting

## Trip Generation per Student

Average Rate	Range of Rates	Standard Deviation
0.35	0.12 - 0.95	0.70

## Data Plot and Equation

*Caution - Use Carefully - Small Sample Size*



# Day Care Center (585)

Average Vehicle Trip Ends vs: Students  
On a: Saturday,  
Peak Hour of Generator

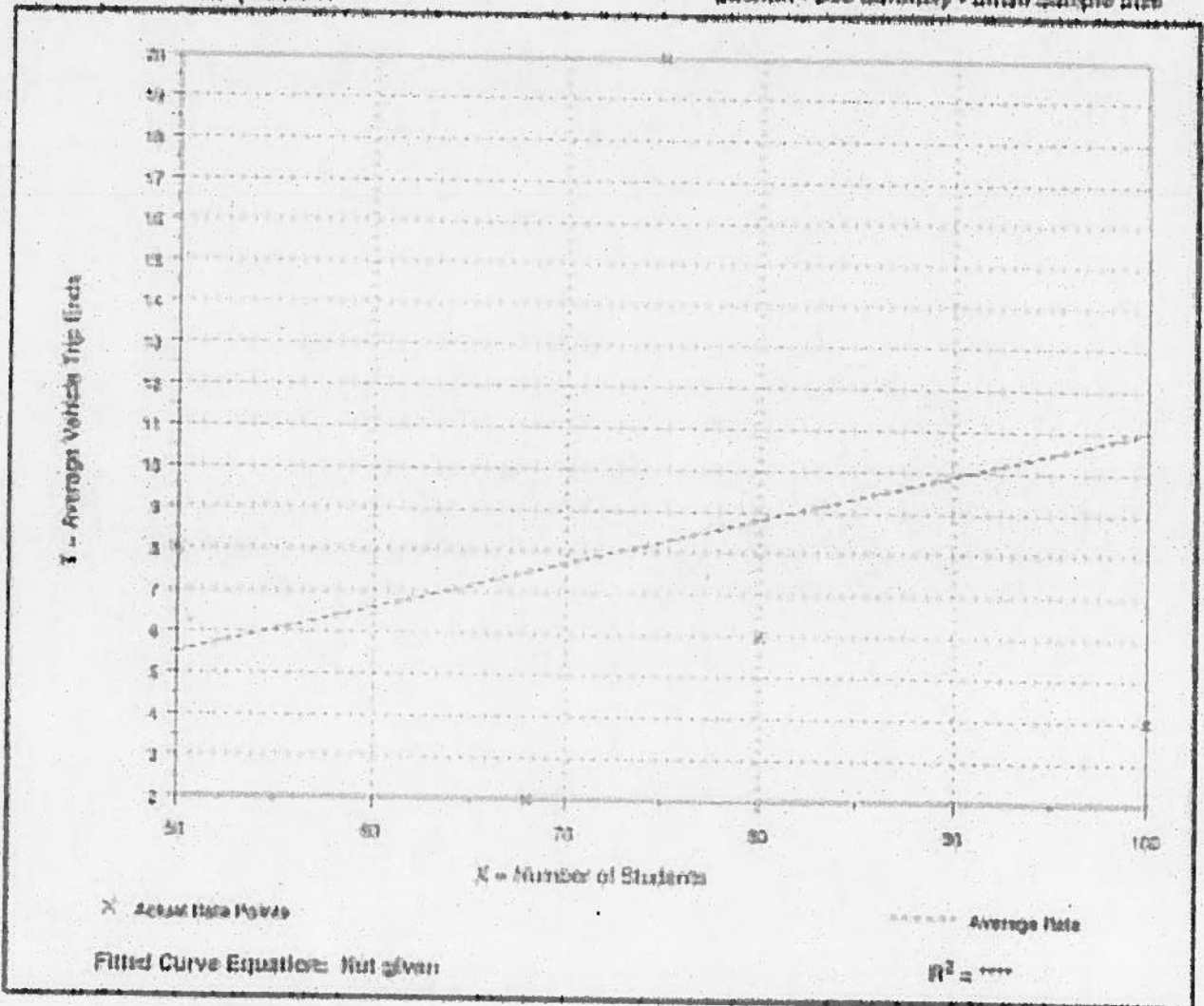
Number of Studies: 5  
Average Number of Students: 75  
Directional Distribution: 63% entering, 37% exiting

## Trip Generation per Student

Average Rate	Range of Rates	Standard Deviation
0.11	0.03 - 0.37	0.34

## Data Plot and Equation

*Caution - Use Carefully - Small Sample Size*



# Day Care Center (565)

Average Vehicle Trip Ends vs: Students  
On a: Sunday

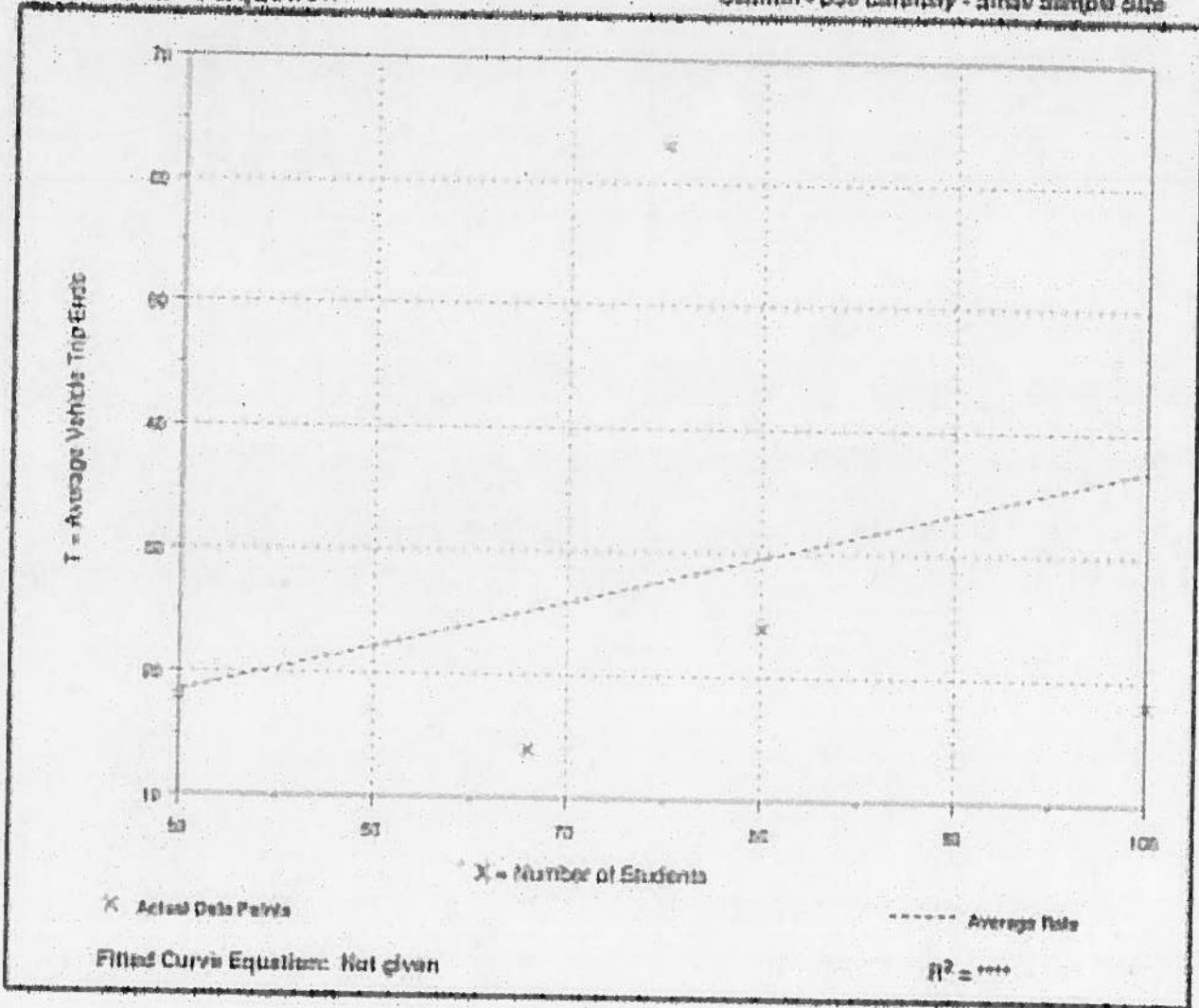
Number of Studies: 5  
Average Number of Students: 75  
Directional Distribution: 50% entering, 50% exiting

## Trip Generation per Student

Average Rate	Range of Rates	Standard Deviation
0.57	0.18 - 0.64	0.25

## Data Plot and Equation

*Caution - Use Carefully - Small Sample Size*



# Day Care Center (565)

Average Vehicle Trip Ends vs: Students  
On a: Sunday,  
Peak Hour of Generator

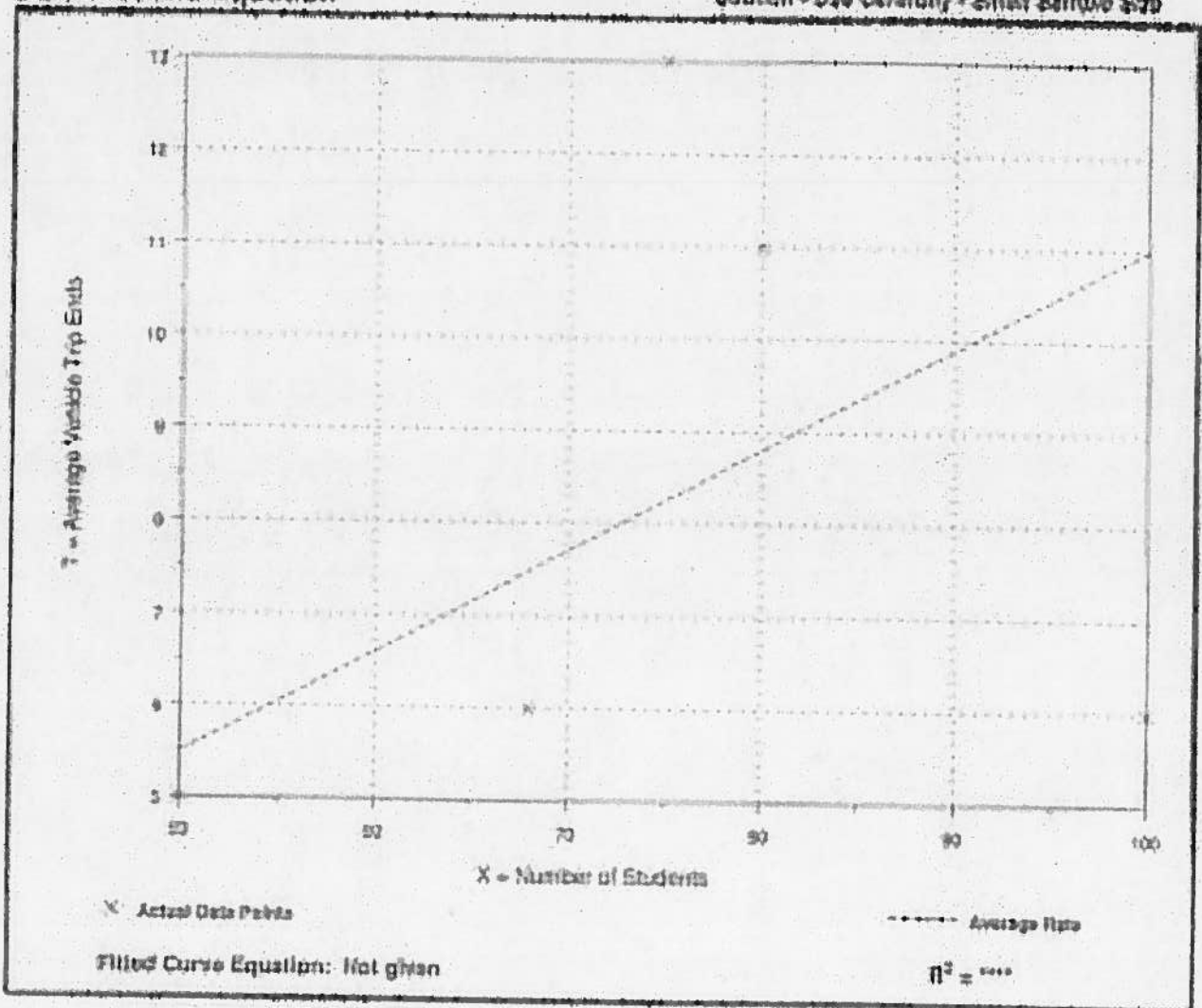
Number of Studies: 5  
Average Number of Students: 75  
Directional Distribution: 54% entering, 46% exiting

### Trip Generation per Student

Average Rate	Range of Rates	Standard Deviation
0.11	0.00 - 0.17	0.03

### Data Plot and Equation

*Caution - Use Carefully - Small Sample Size*



## Land Use: 566 Cemetery

### Description

A cemetery is a place for burying the deceased, possibly including buildings used for funeral services, a mausoleum and a crematorium.

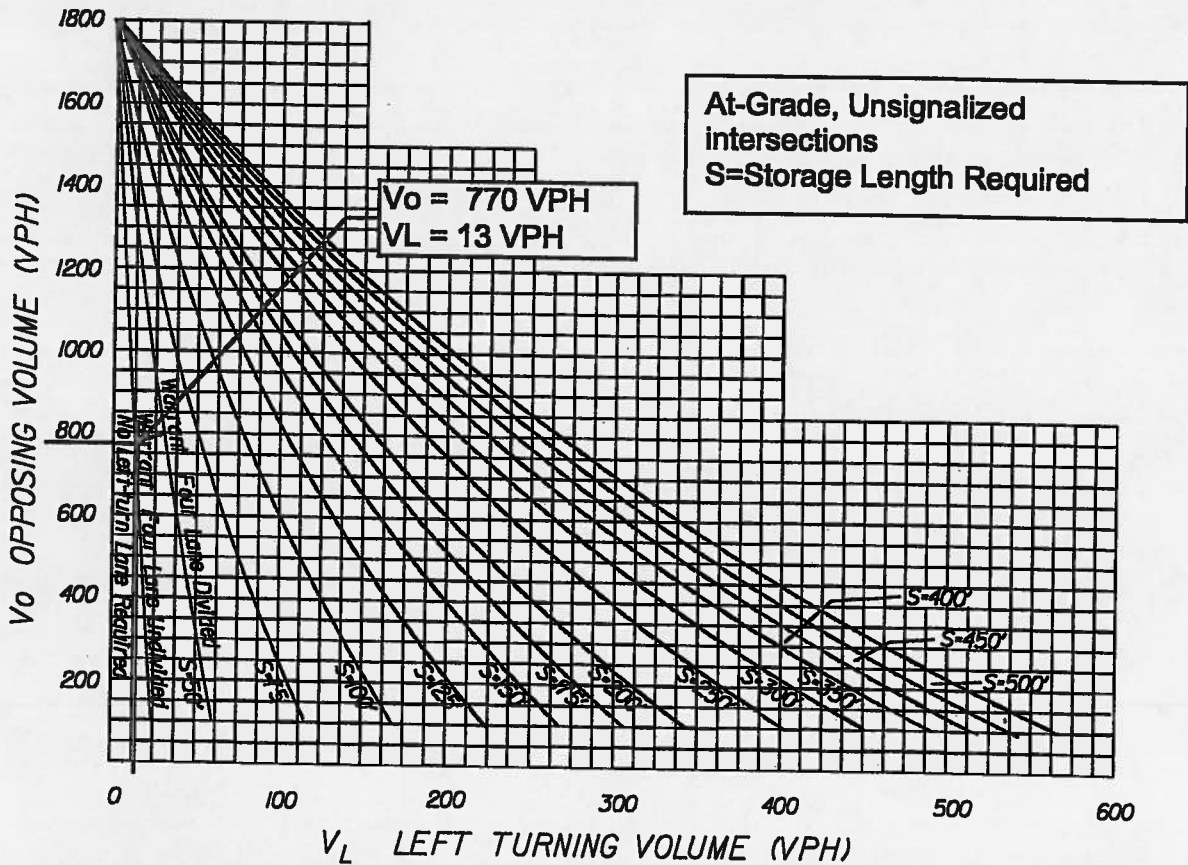
### Additional Data

The sites were surveyed between the 1970s and the mid-1980s in California.

### Source Numbers

214, 382, 430

**Warrants for Left Turn Storage Lanes on Four-Lane Highways**



**FIGURE 3-3 WARRANTS FOR LEFT TURN STORAGE LANES ON FOUR-LANE HIGHWAYS**

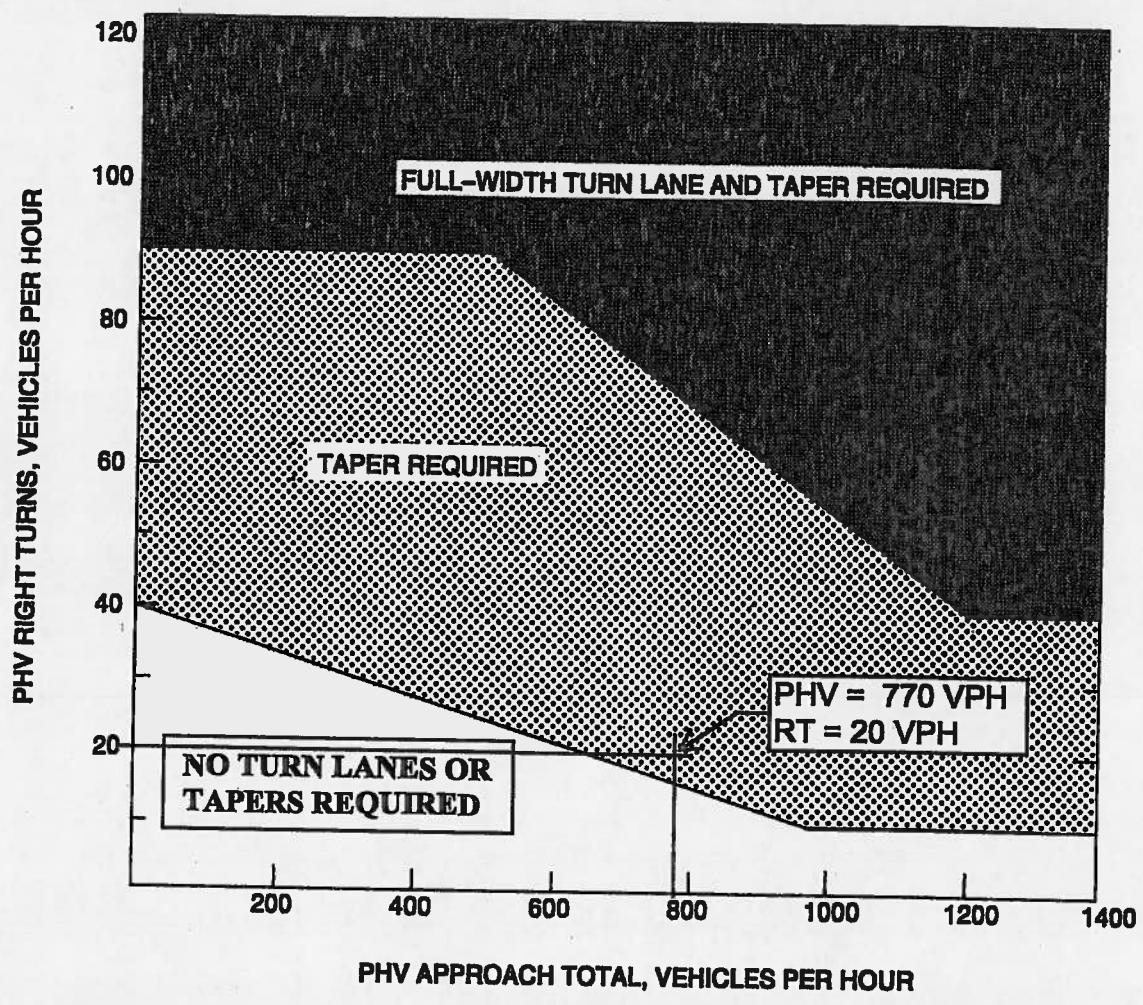
Figure 3-3 was derived from Highway Research Report No. 211.

Opposing volume and left turning volume in vehicles per hour (VPH) are used for left turn storage lane warrants on four-lane highways.

For plan detail requirements when curb and/or gutter are used, see VDOT's Road Design Manual, Section 2E-3 on the VDOT web site:

<http://www.virginia-dot.org/business/locdes/rdmanual-index.asp>.

Left-turn lanes shall also be established on two-lane highways where traffic volumes are high enough to warrant them.



Appropriate Radius required at all Intersections and Entrances (Commercial or Private).

**LEGEND**

**PHV** - - Peak Hour Volume (also Design Hourly Volume equivalent)

**Adjustment for Right Turns**

If PHV is not known use formula:  $PHV = ADT \times K \times D$

K = the percent of AADT occurring in the peak hour

D = the percent of traffic in the peak direction of flow

Note: An average of 11% for K x D will suffice.

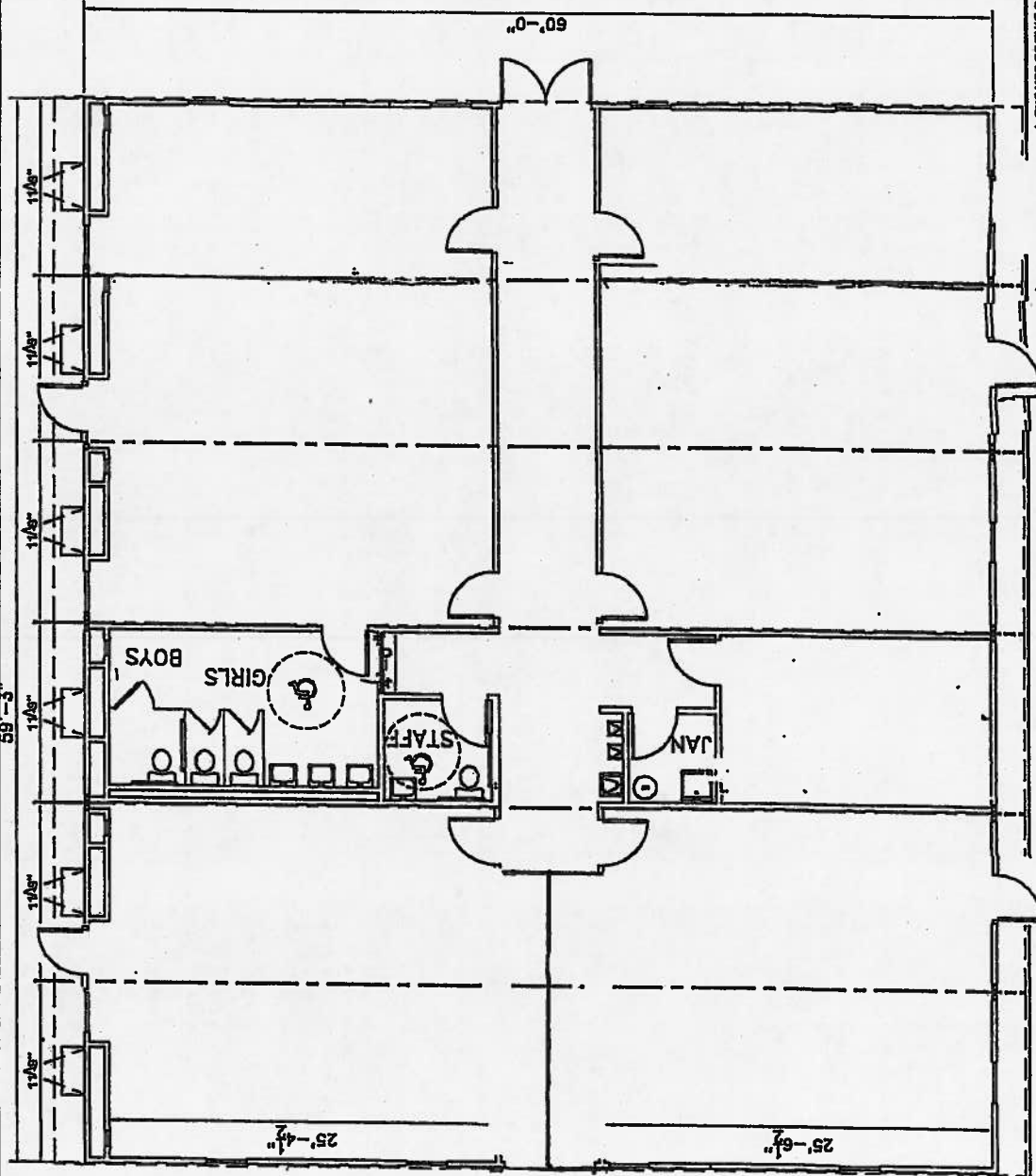
When right turn facilities are warranted, see Figure 3-1 for design criteria.

**FIGURE 3-27 WARRANTS FOR RIGHT TURN TREATMENT (4-LANE HIGHWAY)**

SPACE BY  
**WILLIAMS**  
**SCOTSMAN**

8211 Town Center Drive  
 Baltimore, Maryland 21236-5997  
**800.782.1500**  
 WWW.WILLSCOT.COM

**REDI-PLEX BUILDING  
 FLOOR PLAN**



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CAD FILE	DWG #	REV#	APP'D
SCALE	A-1	0	
3/32"=1'	SERIAL#	DATE	APPL DATE
		2010	MY





**Unapproved Minutes of the December 6, 2017  
Planning Commission Meeting**

SUP-0013-2017, Kensington School

Mr. Scott Whyte, Senior Landscape Planner, stated that The Kensington School applied for an SUP last month. Mr. Whyte stated that since that time the applicant has withdrawn that application and has instead decided to pursue this SUP.

Mr. Whyte stated that Ms. Rachel Salmon has applied for an SUP to operate a second location for The Kensington School day-care center. Mr. Whyte stated that The Kensington School was established in 2010 and now serves over 250 families in James City County from its existing location at 3435 John Tyler Highway. Mr. Whyte further stated that The Kensington School now proposes to expand by adding a second location at 8340 Richmond Road where the historic Hickory Neck Church is located.

Mr. Whyte stated that The Kensington School proposes to serve up to 76 children with seven employees at this location. Mr. Whyte noted that the age of the children range from 6 weeks to 5 years old. Mr. Whyte stated that the hours of operation are proposed to be 7 a.m.-6 p.m., Monday-Friday. Mr. Whyte stated that the drop-off and pick-up schedule is modeled after their current location's schedule.

Mr. Whyte state that the applicant proposes to construct a 4,340 square foot modular building. Mr. Whyte stated that 49 parking spaces exist on-site with a looping drive aisle, which is proposed to be utilized as a drop-off and pick-up area. Mr. Whyte stated that staff has calculated that 26 spaces is the minimum amount of spaces required for 76 children and 7 employees.

Mr. Whyte stated that surrounding properties to the north and west across Richmond Road, contain single-family residential dwellings. Mr. Whyte stated that properties to the south and east contain agricultural uses.

Mr. Whyte stated that the site is designated Low Density Residential on the adopted Comprehensive Plan Land Use Map. Mr. Whyte stated that staff finds that the proposed commercial use of a day-care compatible with the rural character of the Toano area and would support the creation and retention of local small businesses and work force housing in keeping with the intent of the Economic Development section of the Comprehensive Plan.

Mr. Whyte stated that staff finds the proposal to be compatible with the Comprehensive Plan, the Zoning Ordinance and surrounding development. Mr. Whyte further stated that staff recommends that the James City County Planning Commission recommend approval of this application to the Board of Supervisors, subject to the conditions listed in the Staff Report.

Mr. Haldeman inquired about the reference to a directional factor in the Staff Report.

Mr. Whyte stated that he would defer to the applicant's representative to answer that question.

Mr. Krapf called for disclosures from the Commission.

There were no disclosures.

Mr. Krapf opened the Public hearing.

Mr. Aaron Small, Junior Warden for Hickory Neck Church, stated that the Church welcomes The Kensington School to the property.

Mr. Small requested that the Commission consider removing three conditions from the SUP. Mr. Small stated that Condition No. 3 regarding the archaeological study should be removed because the Virginia Department of Historic Resources (VDHR) has already approved the archaeological study.

Mr. Small further stated that Condition No. 5 regarding turnlane and taper warrants should be removed as the information has already been provided.

Mr. Small stated that Condition No. 7 regarding the height of exterior lighting is inconsistent with the existing features of the property as the existing lights are 35 feet tall.

Mr. Small stated that to address the question about the directional factor. A total volume for the road is determined and the directional factor is applied to determine the amount of traffic in each direction. Mr. Small stated that in this case it is slightly more than 50% and is applied to the direction of concern.

Mr. Krapf inquired if the change to SUP conditions had been discussed with staff.

Mr. Small stated that it had been mentioned to staff early on.

Mr. Holt stated that the SUP conditions were standard language and that staff would be reluctant to change that language, especially for Condition No. 3. Mr. Holt stated that staff has not yet received the Virginia Department of Transportation (VDOT) response on the Traffic Study and that staff would prefer that Condition No. 5 remain until VDOT has responded. Mr. Holt stated that Condition No. 7 applied only to new lighting and not existing fixtures. Mr. Holt stated that staff would work with the applicant to address concerns over the lighting requirements.

Mr. Krapf inquired if the applicant was satisfied regarding Condition No. 7.

Mr. Small stated that he would be comfortable working with staff on the lighting requirements.

Mr. Richardson inquired if there was a concern about Condition Nos. 3 and 5 being time consuming to complete.

Mr. Small stated that the items were essentially completed but leaving them as SUP conditions would require extra steps in the process.

Mr. Schmidt inquired about the process to confirm completion of Condition No. 3.

Mr. Holt noted that the Letter from the VDHR has been received.

Mr. Krapf noted that retaining the SUP conditions formalizes the process and ensures that all the project complies with all requirements.

Rev. Jennifer Andrews-Weckerly, Rector of Hickory Neck Episcopal Church, addressed the Commission in support of the application. Rev. Andrews-Weckerly stated that by partnering with the Kensington School, the Church would fulfil its mission to provide child day-care in the community. Rev. Andrews-Weckerly requested that the Commission recommend approval of the application.

As no one else wished to speak, Mr. Krapf closed the Public Hearing.

Mr. Richardson stated that he believes the use is appropriate for the site. Mr. Richardson stated that he believes there is a great demand for day-care in that area and that he would support the application.

Ms. Pete stated that she believes the use is in accord with the Comprehensive Plan. Ms. Pete further stated that she appreciates seeing the partnership between the Church and the School to provide needed services in the Community.

Mr. Wright stated that he finds this to be the better location for the School and that he supports the application.

Mr. Krapf stated that he finds the use to be compatible with the Comprehensive Plan and that he would support the application.

Mr. Wright made a motion to recommend approval of SUP-0013-2017.

On a roll call vote the Commission voted to recommend approval of SUP-0013-2017, The Kensington School (6-0).

**ITEM SUMMARY**

DATE: 1/9/2018

TO: The Board of Supervisors

FROM: Roberta Sulouff, Senior Planner

SUBJECT: ZO-0002-2017, Zoning Ordinance Revisions to Permit Short-Term Residential Rentals

---

**ATTACHMENTS:**

	Description	Type
☐	Staff Memorandum	Staff Report
☐	Strikethrough Draft Zoning Ordinance Language	Ordinance
☐	Clean Draft Zoning Ordinance Language	Backup Material
☐	Proposed Homestay Special Use Permit Guidance Policy	Resolution
☐	Proposed Tourist Home Special Use Permit Guidance Policy	Resolution
☐	Unapproved Minutes from the December 6, 2017, Planning Commission Meeting	Minutes
☐	Minutes from the November 9, 2017, Policy Committee Meeting	Minutes
☐	Minutes from the September 14, 2017, Policy Committee Meeting	Minutes
☐	Minutes from the July 13, 2017, Policy Committee Meeting	Minutes

**REVIEWERS:**

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	12/20/2017 - 3:59 PM
Development Management	Holt, Paul	Approved	12/20/2017 - 3:59 PM
Publication Management	Burcham, Nan	Approved	12/20/2017 - 4:09 PM
Legal Review	Kinsman, Adam	Approved	12/20/2017 - 4:12 PM
Board Secretary	Fellows, Teresa	Approved	12/28/2017 - 11:28 AM
Board Secretary	Purse, Jason	Approved	1/2/2018 - 1:53 PM
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 1:55 PM

## MEMORANDUM

DATE: January 9, 2018

TO: The Board of Supervisors

FROM: Roberta Sulouff, Senior Planner

SUBJECT: Case No. ZO-0002-2017. Zoning Ordinance Revisions to Permit Short-Term Residential Rentals

---

### INTRODUCTION

During the course of recent public hearing cases, members of both the Planning Commission and the Board of Supervisors expressed a desire for a policy addressing the emerging issue of short-term residential rentals, also known as “homesharing.” This sentiment was echoed at the May 23, 2017, Joint Board of Supervisors and Planning Commission Work Session and again at the Planning Commission’s November 1, 2017 meeting, at which the Commission formally initiated the consideration of Zoning Ordinance amendments to permit short-term residential rentals in residentially zoned areas. In addition to public hearing cases for this use, staff has also received several public inquiries and conceptual plan applications from citizens interested in pursuing this use on their properties.

Commission and Board members have also expressed interest in state legislation regarding short-term vacation rentals. During the 2017 General Assembly Session, the legislature approved SB 1578 which allows a locality to create a short-term rental registry. This legislation does not “prohibit, limit or otherwise supersede existing local authority to regulate the short-term rental property through general land use and zoning authority.”

On July 13, 2017, the Policy Committee met to discuss initial planning for policies and ordinance amendments to address the emerging topic of short-term residential rentals (Stage I). At that meeting, the Committee expressed interest in pursuing a hybrid approach to permitting such rentals, similar to the approach taken during the recent amendment process addressing rural event facilities, wherein certain aspects of the use would be permitted by-right and others would require the issuance of a Special Use Permit (SUP). The Committee directed staff to research and develop draft Zoning Ordinance language to define and develop a permitting process for short-term residential rentals. Staff met with the Committee again at its September 16, 2017, (Stage II) and November 9, 2017, (Stage III) meetings to receive feedback on draft ordinance and policy language. Staff incorporated feedback from these meetings, as well as feedback from the Commissioner of the Revenue and the County Attorney, into the language in the attached policies and amended ordinances.

### DRAFT ORDINANCE LANGUAGE

Draft ordinances and policies are included as Attachment Nos. 1-14 and accomplish the following:

- In Section 24-2 (In General, Definitions):
  - Creates definitions for “homestay,” “rental of rooms” and “transient”
  - Adds language to the existing definition of “tourist home” to more clearly differentiate its application from uses falling under the newly proposed “homestay” definition as well as to provide examples of potential uses.

- In Section 24-7 (In General, Administrative Fees):
  - Institutes a \$25 fee for the review of administrative homestay applications.
- In Special Regulations:
  - Creates a permitting process for by-right homestay applications, including the following provisions:
    - A requirement to provide an affidavit for proof of primary residence at the subject property.
    - A requirement to release tax information to the Planning Division regarding the homestay use at the property for the purpose of verifying the number of days of rentals per year, compliance with the registry requirement and the number of rental contracts per night.
  - Creates performance standards for the operation of by-right homestay uses, including the following standards:
    - Restricts operation of the homestay use to 180 days per calendar year and limits the rental to one contract party per night.
    - Prohibits the use of the homestay as an event space (for gatherings such as commercial meetings, banquets, parties, weddings and charitable fundraisers).
    - Establishes parking requirements and prohibits on-street parking of commercial and/or oversized vehicles in conjunction with the homestay.
    - Prohibits signage related to the homestay use.
- In Section 24, Division V (Districts):
  - Adds “Homestay, to a maximum of one room, in accordance with Section 24-50” as a permitted use in the R-1, R-2, R-3, R-5, R-6, Planned Unit Development and Mixed Use districts.
  - Adds “Homestay, greater than one room and/or exceeding 180 days of rentals per year” as a specially permitted use in the R-1, R-2, R-3, R-5, R-6, Planned Unit Development and Mixed Use Districts.
  - Adds “Homestay, in accordance with Section 24-50” with no room number restrictions, to the A-1, R-4 and R-8 Districts.
  - Includes changes to uses throughout the Use Lists to ensure consistency in the intensity of permitted uses and avoid any unintended loopholes in the application of the uses:
    - Removes room number specifications for the “Rental of Rooms” use, which is no longer a short-term use and is now regulated by the number and relationship of people in a dwelling rather than rooms.
    - Makes “Rental of Rooms” a specially permitted use in the R-3, R-4, R-5 and Mixed Use Districts.
    - Removes “Tourist Home” from the R-5 Use List; tourist homes are proposed to be a higher-intensity use, more commercial in nature, and staff finds that such a use is inconsistent with the character of multi-family housing in situations where neighbors may be sharing walls.
- Introduces a new administrative policy for guidance in the review of legislative homestay applications, as well as a separate policy to provide guidance in the review of tourist home application. The policies differ in an attempt to draw a distinction between the homestay use as residential in character and the tourist home use as more commercial in nature. For example, through the guidelines, staff intends the more intense use of tourist home to be more geographically constrained than the homestay use. Several potential SUP conditions are also written and included with this distinction in mind.

### **CHANGES SINCE THE DECEMBER 6, 2017, PLANNING COMMISSION MEETING**

- The use of rental of rooms has been moved into the residential category of uses, where applicable, throughout the use lists of the districts listed above. Staff believes that this category is more consistent with the newly proposed definition for rental of rooms, which no longer addresses transient or commercial operations.
- Other non-substantive, grammatical and punctuation changes have been made throughout the draft language.

### **RECOMMENDATION**

On November 9, 2017, the Policy Committee voted 4-0 to recommend approval of all the proposed changes. On December 6, 2017, the Planning Commission voted 6-0 to recommend approval of all the proposed changes. Staff recommends the Board of Supervisors approve the proposed draft ordinance and policy language and adopt the attached draft ordinance amendments and policy language.

RS/nb  
ZO-02-17STRR-mem

#### Attachments:

1. Strikethrough Draft Zoning Ordinance Language
2. Clean Draft Zoning Ordinance Language
3. Proposed Homestay Special Use Permit Guidance Policy
4. Proposed Tourist Home Special Use Permit Guidance Policy
5. Unapproved minutes from the December 6, 2017, Planning Commission Meeting
6. Minutes from the November 9, 2017, Policy Committee Meeting
7. Minutes from the September 14, 2017, Policy Committee Meeting
8. Minutes from the July 13, 2017, Policy Committee Meeting



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, BY AMENDING SECTION 24-2, DEFINITIONS, AND SECTION 24-7, ADMINISTRATIVE FEES; AND BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION I, IN GENERAL, BY ADDING SECTION 24-50, HOMESTAYS; AND BY AMENDING ARTICLE V, DISTRICTS, BY AMENDING DIVISION 2, GENERAL AGRICULTURAL DISTRICT, A-1, SECTION 24-212, USE LIST; DIVISION 3, LIMITED RESIDENTIAL DISTRICT, R-1, SECTION 24-232, USE LIST; DIVISION 4, GENERAL RESIDENTIAL DISTRICT, R-2, SECTION 24-252, USE LIST; DIVISION 4.1, RESIDENTIAL REDEVELOPMENT DISTRICT, R-3, SECTION 24-273.2, USE LIST; DIVISION 5, RESIDENTIAL PLANNED COMMUNITY DISTRICT, R-4, SECTION 24-281, USE LIST; DIVISION 6, MULTIFAMILY DISTRICT, R-5, SECTION 24-305, USE LIST; DIVISION 7, LOW DENSITY RESIDENTIAL DISTRICT, R-6, SECTION 24-328, PERMITTED USES, AND SECTION 24-329, USES PERMITTED BY SPECIAL USE PERMIT ONLY; DIVISION 8, RURAL RESIDENTIAL DISTRICT, R-8, SECTION 24-348, USE LIST; DIVISION 14, PLANNED UNIT DEVELOPMENT DISTRICT, PUD, SECTION 24-493, USE LIST; AND DIVISION 15, MIXED USE, MU, SECTION 24-518, USE LIST.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, by amending Section 24-2, Definitions, and Section 24-7, Administrative fees; and by amending Article II, Special Regulations, Division I, In General, by adding Section 24-50, Homestays; and by amending Article V, Districts, by amending Division 2, General Agricultural District, A-1, Section 24-212, Use List; Division 3, Limited Residential District, R-1, Section 24-232, Use List; Division 4, General Residential District, R-2, Section 24-252, Use List; Division 4.1, Residential Redevelopment District, R-3, Section 24-273.2, Use List; Division 5, Residential Planned Community District, R-4, Section 24-281, Use List; Division 6, Multifamily Residential District, R-5, Section 24-305, Use List; Division 7, Low Density Residential District, R-6, Section 24-328, Permitted Uses, and Section 24-329, Uses Permitted by Special Use Permit Only; Division 8, Rural Residential District, R-8, Section 24-348, Use list; Division 14, Planned Unit Development District, PUD, Section 24-493, Use list; and Division 15, Mixed Use, MU, Section 24-518, Use list.

## **Chapter 24. Zoning**

### **Article I. In General**

#### **Section 24-2. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

#### **H**

*Homestay. The incidental and secondary use of a residential dwelling, in part or in whole, by residents of that dwelling to provide short-term lodging to transient occupants in exchange for compensation for that occupancy. Such accessory or secondary use shall not create a landlord-tenant relationship. The primary*

*use of the dwelling shall remain residential. This term shall not apply to bed and breakfasts, boarding houses, timeshares, and the transient rental of an entire residential home which is not a primary residence.*

## R

*Rental of rooms. The non-transient rental of rooms in a residential dwelling in circumstances exceeding the definition of family (refer to the definition of "family"). This term shall not apply to group homes, timeshares, homestays or the rental of rooms in a dwelling which meets the definition of family.*

## T

*Tourist Home. A dwelling where lodging or lodging and meals are provided to transient occupants for compensation for up to five rooms which are open to transients. This term shall not apply to homestays or rental of rooms (refer to the definition of "rental of rooms"). This use may include but shall not be limited to the transient rental of an entire residential dwelling which is not a primary residence, bed and breakfasts, and boarding houses.*

*Transient. A period of less than 30 consecutive days, specifically in relation to the lodging of occupants.*

### **Section 24-7. Administrative fees.**

- (a) Fees shall be charged at the time of application to offset the cost of making inspections, issuing permits, advertising notices and other expenses incident to the administration of this chapter or to the filing or processing of any appeal or amendment thereto. The following fees shall be charged and collected at the time of application:

Procedure      Fee

(13) Homestay, administrative review, \$25.00.

## **Article II. Special Regulations**

### **Division I. In General**

#### **Section 24-50. Homestays.**

*The following regulations shall apply to the permitting and operation of homestays within certain districts of the county.*

- (a) *Administration. The operation of homestays on appropriately zoned properties shall be permitted by administrative permit. The requirements of section 24-50(a) and (c) shall not apply to properties where homestay is a specially permitted use; in such cases the issuance of a special use permit by the board of supervisors is required prior to operation of the homestay. Written application for a homestay permit shall be made to the director of planning or his designee.*

*Such application shall be on forms provided by the county and shall be accompanied by the following:*

- 1. a fee in accordance with section 24-7;*

2. a written affidavit certifying the applicant’s address of primary residence; and

3. written authorization for the release of tax records to the planning division for the purpose of ensuring compliance with section 24-50(b).

The written affidavit of address shall serve as proof of the operator’s permanent residence at the property subject to the application.

(b) Any operator of a homestay shall register the homestay with the commissioner of the revenue in accordance with section 12-81.

(c) Performance standards. The following standards and conditions shall apply to the operation of homestays:

(1) An approved homestay application will permit a maximum of 180 days of rentals in each calendar year.

(2) A homestay shall not conduct simultaneous rentals under separate contracts.

(3) Commercial events, including but not limited to luncheons, banquets, parties, weddings, meetings, charitable fund-raising, commercial or advertising activities, or other gatherings for direct or indirect compensation are prohibited.

(4) Homestays shall provide a minimum of two off-street parking spaces, with an additional one off-street parking space per room rented.

(5) No recreational vehicles, buses, or trailers shall be parked on the adjoining street or visible on the property in conjunction with the homestay use.

(6) Signs, advertising, or any other display on the property indicating that the homestay unit is being utilized, in whole or in part, as a homestay are not permitted.

Upon review and determination that the homestay operation complies with the standards set forth in this section, the planning division shall issue a permit. Any permit that is found in violation or not in compliance with this section may be revoked. The administrative permit shall be valid for a period not to exceed one (1) year from date of issuance, at which time the operator may apply to renew their permit in accordance with section 24-50(a).

## Article V. Districts

### Division 2. General Agricultural District, A-1

#### Section 24-212. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Homestay, in accordance with section 24-50.	P	
	Homestay, exceeding 180 days of rentals per year.		SUP
	Rental of rooms		SUP
Commercial Uses	Rental of rooms to a maximum of three rooms.		SUP
	Tourist homes.		SUP

**Division 3. Limited Residential District, R-1**

**Section 24-232. Use list.**

In the Limited Residential District, R-1, structures to be erected or land to be used, shall be for the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	<i>Homestay, to a maximum of one room, in accordance with section 24-50</i>	<i>P</i>	
	<i>Homestay, greater than one room and/or exceeding 180 days of rentals per year</i>		<i>SUP</i>
	<i>Rental of rooms</i>		<i>SUP</i>
Commercial Uses	<del>Rental of rooms to a maximum of three rooms</del>		<i>SUP</i>

**Division 4. General Residential District, R-2**

**Section 24-252. Use list.**

In the General Residential District, R-2, structures to be erected or land to be used, shall be for the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	<i>Homestay, to a maximum of one room, in accordance with section 24-50</i>	<i>P</i>	
	<i>Homestay, greater than one room and/or exceeding 180 days of rentals per year</i>		<i>SUP</i>
	<i>Rental of rooms</i>		<i>SUP</i>
Commercial Uses	<del>Rental of rooms to a maximum of three rooms</del>		<i>SUP</i>
	Tourist homes		<i>SUP</i>

**Division 4.1. Residential Redevelopment District, R-3**

**Section 24-273.2. Use list.**

In the Residential Redevelopment District, R-3, structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	<i>Homestay, to a maximum of one room, in accordance with section 24-50</i>	P	
	<i>Homestay, greater than one room and/or exceeding 180 days of rentals per year</i>		SUP
	<i>Rental of rooms</i>		SUP
Commercial Uses	<del>Rental of one room</del>	P	
	<del>Rental of two or three rooms to a maximum of three rooms</del>		SUP
	Tourist homes		SUP

**Division 5. Residential Redevelopment District, R -4**

**Section 24-281. Use list.**

In the residential planned community district, R-4, structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	<i>Homestay, in accordance with section 24-50</i>	P	
	<i>Homestay, exceeding 180 days of rentals per year</i>		SUP
	<i>Rental of rooms</i>		SUP
Commercial Uses	Hotels, resort hotels, motels, tourist homes and convention centers	P	
	<del>Rental of rooms to a maximum of three rooms</del>	P	

**Division 6. Multifamily District, R -5**

**Section 24-305. Use list.**

In the Multifamily Residential District, R-5, structures to be erected or land to be used shall be for the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	<i>Homestay, to a maximum of one room, in accordance with section 24-50</i>	<i>P</i>	
	<i>Homestay, greater than one room and/or exceeding 180 rentals per year</i>		<i>SUP</i>
	<i>Rental of rooms</i>		<i>SUP</i>
Commercial Uses	<del>Rental of one room</del>	<i>P</i>	
	<del>Rental of two or three rooms to a maximum of three rooms</del>		<i>SUP</i>
	<del>Tourist homes</del>	<i>P</i>	

**Division 7. Low-Density Residential District, R-6**

**Section 24-328. Permitted uses.**

In the Low-Density Residential, R-6, structures to be erected or land to be used shall be for the following uses:

*Homestay, to a maximum of one room, in accordance with section 24-50.*

**Section 24-329. Uses permitted by special use permit only.**

In the Low-Density Residential, R-6, buildings to be erected or land to be used for the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:

*Homestay, greater than one room and/or exceeding 180 days of rentals per year.*

~~Rental of rooms to a maximum of three rooms.~~

**Division 8. Rural Residential District, R-8**

**Section 24-348. Use List.**

In the Rural Residential District, R-8, structures to be erected or land to be used shall be for the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	<i>Homestays, in accordance with section 24-50.</i>	<i>P</i>	
	<i>Homestays, exceeding 180 days of rentals per year.</i>		<i>SUP</i>
	<i>Rental of rooms</i>		<i>SUP</i>
Commercial Uses	<del>Rental of rooms to a maximum of three rooms.</del>		<i>SUP</i>
	Tourist homes.		<i>SUP</i>

**Division 14. Planned Unit Development Districts, PUD**

**Section 24-493. Use list.**

(a) In the planned unit development district, residential (PUD-R), all structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	<i>Homestay, to a maximum of one room, in accordance with section 24-50</i>	<i>P</i>	
	<i>Homestay, greater than one room and/or exceeding 180 days of rentals per year</i>		<i>SUP</i>
	<i>Rental of rooms</i>		<i>SUP</i>
Commercial Uses	Hotels, resort hotels, motels, tourist homes and convention centers	<i>P</i>	
	<del>Rental of rooms to a maximum of three rooms</del>		<i>SUP</i>

**Division 15. Mixed Use, MU**

**Section 24-518. Use list.**

In the mixed use districts, all structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	<i>Homestay, to a maximum of one room, in accordance with section 24-50</i>	<i>P</i>	
	<i>Homestay, greater than one room and/or exceeding 180 days of rentals per year</i>		<i>SUP</i>
	<i>Rental of rooms</i>		<i>SUP</i>
Commercial Uses	Hotels, motels, tourist homes and convention centers	P	
	<del>Rental of more than three rooms in a single-family dwelling unit</del>		SUP
	<del>Rental of rooms to a maximum of three rooms</del>	<del>P</del>	

\_\_\_\_\_  
 Ruth M. Larson  
 Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
 Teresa J. Fellows  
 Deputy Clerk to the Board

VOTES

AYE    NAY    ABSTAIN

MCGLENNON	_____	_____	_____
LARSON	_____	_____	_____
ICENHOUR	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January, 2018.

ZO-02-17STRR-ord



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, BY AMENDING SECTION 24-2, DEFINITIONS, AND SECTION 24-7, ADMINISTRATIVE FEES; AND BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION I, IN GENERAL, BY ADDING SECTION 24-50, HOMESTAYS; AND BY AMENDING ARTICLE V, DISTRICTS, BY AMENDING DIVISION 2, GENERAL AGRICULTURAL DISTRICT, A-1, SECTION 24-212, USE LIST; DIVISION 3, LIMITED RESIDENTIAL DISTRICT, R-1, SECTION 24-232, USE LIST; DIVISION 4, GENERAL RESIDENTIAL DISTRICT, R-2, SECTION 24-252, USE LIST; DIVISION 4.1, RESIDENTIAL REDEVELOPMENT DISTRICT, R-3, SECTION 24-273.2, USE LIST; DIVISION 5, RESIDENTIAL PLANNED COMMUNITY DISTRICT, R-4, SECTION 24-281, USE LIST; DIVISION 6, MULTIFAMILY DISTRICT, R-5, SECTION 24-305, USE LIST; DIVISION 7, LOW DENSITY RESIDENTIAL DISTRICT, R-6, SECTION 24-328, PERMITTED USES, AND SECTION 24-329, USES PERMITTED BY SPECIAL USE PERMIT ONLY; DIVISION 8, RURAL RESIDENTIAL DISTRICT, R-8, SECTION 24-348, USE LIST; DIVISION 14, PLANNED UNIT DEVELOPMENT DISTRICT, PUD, SECTION 24-493, USE LIST; AND DIVISION 15, MIXED USE, MU, SECTION 24-518, USE LIST.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, by amending Section 24-2, Definitions, and Section 24-7, Administrative fees; and by amending Article II, Special Regulations, Division I, In General, by adding Section 24-50, Homestays; and by amending Article V, Districts, by amending Division 2, General Agricultural District, A-1, Section 24-212, Use List; Division 3, Limited Residential District, R-1, Section 24-232, Use List; Division 4, General Residential District, R-2, Section 24-252, Use List; Division 4.1, Residential Redevelopment District, R-3, Section 24-273.2, Use List; Division 5, Residential Planned Community District, R-4, Section 24-281, Use List; Division 6, Multifamily Residential District, R-5, Section 24-305, Use List; Division 7, Low Density Residential District, R-6, Section 24-328, Permitted Uses, and Section 24-329, Uses Permitted by Special Use Permit Only; Division 8, Rural Residential District, R-8, Section 24-348, Use list; Division 14, Planned Unit Development District, PUD, Section 24-493, Use list; and Division 15, Mixed Use, MU, Section 24-518, Use list.

**Chapter 24. Zoning**

**Article I. In General**

**Section 24-2. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

**H**

Homestay. The incidental and secondary use of a residential dwelling, in part or in whole, by residents of that dwelling to provide short-term lodging to transient occupants in exchange for compensation for that occupancy. Such accessory or secondary use shall not create a landlord-tenant relationship. The primary

use of the dwelling shall remain residential. This term shall not apply to bed and breakfasts, boarding houses, timeshares, and the transient rental of an entire residential home which is not a primary residence.

## R

Rental of rooms. The non-transient rental of rooms in a residential dwelling in circumstances exceeding the definition of family (refer to the definition of “family”). This term shall not apply to group homes, timeshares, homestays or the rental of rooms in a dwelling which meets the definition of family.

## T

*Tourist Home.* A dwelling where lodging or lodging and meals are provided to transient occupants for compensation. This term shall not apply to homestays or rental of rooms (refer to the definition of “rental of rooms”). This use may include but shall not be limited to the transient rental of an entire residential dwelling which is not a primary residence, bed and breakfasts, and boarding houses.

Transient. A period of less than 30 consecutive days, specifically in relation to the lodging of occupants.

### Section 24-7. Administrative fees.

- (a) Fees shall be charged at the time of application to offset the cost of making inspections, issuing permits, advertising notices and other expenses incident to the administration of this chapter or to the filing or processing of any appeal or amendment thereto. The following fees shall be charged and collected at the time of application:

<u>Procedure</u>	<u>Fee</u>
------------------	------------

- |      |   |
|------|---|
| (13) | Homestay, administrative review, \$25.00. |
|------|---|

## Article II. Special Regulations

### Division I. In General

#### Section 24-50. Homestays.

The following regulations shall apply to the permitting and operation of homestays within certain districts of the county.

- (a) Administration. The operation of homestays on appropriately zoned properties shall be permitted by administrative permit. The requirements of section 24-50(a) and (c) shall not apply to properties where homestay is a specially permitted use; in such cases the issuance of a special use permit by the board of supervisors is required prior to operation of the homestay. Written application for a homestay permit shall be made to the director of planning or his designee.

Such application shall be on forms provided by the county and shall be accompanied by the following:

1. a fee in accordance with section 24-7;

2. a written affidavit certifying the applicant’s address of primary residence; and
3. written authorization for the release of tax records to the planning division for the purpose of ensuring compliance with section 24-50(b).

The written affidavit of address shall serve as proof of the operator’s permanent residence at the property subject to the application.

- (b) Any operator of a homestay shall register the homestay with the commissioner of the revenue in accordance with section 12-81.
- (c) Performance standards. The following standards and conditions shall apply to the operation of homestays:
  - (1) An approved homestay application will permit a maximum of 180 days of rentals in each calendar year.
  - (2) A homestay shall not conduct simultaneous rentals under separate contracts.
  - (3) Commercial events, including but not limited to luncheons, banquets, parties, weddings, meetings, charitable fund-raising, commercial or advertising activities, or other gatherings for direct or indirect compensation are prohibited.
  - (4) Homestays shall provide a minimum of two off-street parking spaces, with an additional one off-street parking space per room rented.
  - (5) No recreational vehicles, buses, or trailers shall be parked on the adjoining street or visible on the property in conjunction with the homestay use.
  - (6) Signs, advertising, or any other display on the property indicating that the homestay unit is being utilized, in whole or in part, as a homestay are not permitted.

Upon review and determination that the homestay operation complies with the standards set forth in this section, the planning division shall issue a permit. Any permit that is found in violation or not in compliance with this section may be revoked. The administrative permit shall be valid for a period not to exceed one (1) year from date of issuance, at which time the operator may apply to renew their permit in accordance with section 24-50(a).

**Article V. Districts**

**Division 2. General Agricultural District, A-1**

**Section 24-212. Use list.**

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Homestay, in accordance with section 24-50.	P	
	Homestay, exceeding 180 days of rentals per year.		SUP
	Rental of rooms		SUP
Commercial Uses	Tourist homes.		SUP

**Division 3. Limited Residential District, R-1**

**Section 24-232. Use list.**

In the Limited Residential District, R-1, structures to be erected or land to be used, shall be for the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Homestay, to a maximum of one room, in accordance with section 24-50	P	
	Homestay, greater than one room and/or exceeding 180 days of rentals per year		SUP
	Rental of rooms		SUP

**Division 4. General Residential District, R-2**

**Section 24-252. Use list.**

In the General Residential District, R-2, structures to be erected or land to be used, shall be for the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Homestay, to a maximum of one room, in accordance with section 24-50	P	
	Homestay, greater than one room and/or exceeding 180 days of rentals per year		SUP
	Rental of rooms		SUP
Commercial Uses	Tourist homes		SUP

**Division 4.1. Residential Redevelopment District, R-3**

**Section 24-273.2. Use list.**

In the Residential Redevelopment District, R-3, structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Homestay, to a maximum of one room, in accordance with section 24-50	P	
	Homestay, greater than one room and/or exceeding 180 days of rentals per year		SUP
	Rental of rooms		SUP

Commercial Uses	Tourist homes		SUP
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**Division 5. Residential Redevelopment District, R -4**

**Section 24-281. Use list.**

In the residential planned community district, R-4, structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Homestay, in accordance with section 24-50	P	
	Homestay, exceeding 180 days of rentals per year		SUP
	Rental of rooms		SUP
Commercial Uses	Hotels, resort hotels, motels, tourist homes and convention centers	P	

**Division 6. Multifamily District, R -5**

**Section 24-305. Use list.**

In the Multifamily Residential District, R-5, structures to be erected or land to be used shall be for the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Homestay, to a maximum of one room, in accordance with section 24-50	P	
	Homestay, greater than one room and/or exceeding 180 rentals per year		SUP
	Rental of rooms		SUP

**Division 7. Low-Density Residential District, R-6**

**Section 24-328. Permitted uses.**

In the Low-Density Residential, R-6, structures to be erected or land to be used shall be for the following uses:

Homestay, to a maximum of one room, in accordance with section 24-50.

**Section 24-329. Uses permitted by special use permit only.**

In the Low-Density Residential, R-6, buildings to be erected or land to be used for the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:

Homestay, greater than one room and/or exceeding 180 days of rentals per year.

Rental of rooms.

**Division 8. Rural Residential District, R-8**

**Section 24-348. Use List.**

In the Rural Residential District, R-8, structures to be erected or land to be used shall be for the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Homestays, in accordance with section 24-50.	P	
	Homestays, exceeding 180 days of rentals per year.		SUP
	Rental of rooms		SUP
Commercial Uses	Tourist homes.		SUP

**Division 14. Planned Unit Development Districts, PUD**

**Section 24-493. Use list.**

(a) In the planned unit development district, residential (PUD-R), all structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Homestay, to a maximum of one room, in accordance with section 24-50	P	
	Homestay, greater than one room and/or exceeding 180 days of rentals per year		SUP
	Rental of rooms		SUP
Commercial Uses	Hotels, resort hotels, motels, tourist homes and convention centers	P	

**Division 15. Mixed Use, MU**

**Section 24-518. Use list.**

In the mixed use districts, all structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Homestay, to a maximum of one room, in accordance with section 24-50	P	

	Homestay, greater than one room and/or exceeding 180 days of rentals per year		SUP
	Rental of rooms		SUP
Commercial Uses	Hotels, motels, tourist homes and convention centers	P	

ZO-02-17STRR-ord-final

## **RESOLUTION**

### **HOMESTAY SPECIAL USE PERMIT GUIDELINES POLICY**

WHEREAS, during the course of recent public hearings, the Planning Commission and the Board of Supervisors expressed a desire for a policy to guide the review of Special Use Permit (SUP) applications for short-term residential rentals; and

WHEREAS, on November 1, 2017, the Planning Commission initiated consideration of amendments to the Zoning Ordinance to permit short-term residential rentals; and

WHEREAS, as part of this consideration, a new use and definition of “homestay” has been proposed whereby homestays are distinguished from other permitted forms of short-term residential rentals; and

WHEREAS, at its November 9, 2017 meeting, the Policy Committee endorsed proposed amendments to the Zoning Ordinance as well as draft guidance policies to address the review of SUP applications for homestays and tourist homes; and

WHEREAS, at its December 6, 2017 meeting, the Planning Commission endorsed the proposed Zoning Ordinance revisions and draft policy language by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following:

### **HOMESTAY SUP GUIDELINES POLICY**

#### **Purpose**

The purpose of the Homestay SUP Guidelines is to provide clear guidelines to the application for and review of SUPs allowing homestays in appropriately zoned areas.

#### **Review Criteria**

In addition to demonstrating compliance with all performance standards found in Sec. 24-50(c)(2-6) of the James City County Zoning Ordinance, any application for a homestay requiring an SUP shall demonstrate substantial conformance to the following provisions:

- i. The intensity of the proposed homestay operation, including the number of rooms proposed for rental, the amount of parking permitted, or the number of days of operation per year should complement the residential character of the area; and
- ii. Have traffic, noise, lighting and other impacts similar to surrounding residential uses; and
- iii. Generally be located on collector or arterial roads, or, if within a platted subdivision, be located on a lot whose size, shape or location within the subdivision limits its impacts on adjacent residential properties; and
- iv. Provide adequate screening or buffering of guest parking or outdoor common areas.



Permit Conditions

In consideration of such an application and given the unique qualities of each proposed site, the Board of Supervisors may require conditions, in addition to the homestay permitting requirements found in Section 24-50(c)(2-6), intended to limit the intensity and impacts of the use. These may include, but may not be limited to the following, as applicable:

- i. *Access:* No additional access, other than existing driveways or entries, shall be added to the subject property.
- ii. *Occupancy:* Occupancy of the homestay, at the time of rental, shall not exceed the total occupancy equal to double-occupancy for each bedroom at the subject property.
- iii. *Parking:* No on-street parking shall be allowed for this use.
- iv. *Homestay Rooms:* The Board of Supervisors may require a condition which limits the number of rooms for rent at a subject property.
- v. *Length or Timing of Operation:* The Board of Supervisors may require a condition which limits the operation of the proposed homestay to certain days of the week or which prohibits single-night rentals.
- vi. *Rental Allowance:* The Board of Supervisors may require a conditions which further restricts the number of rental nights allowed per 12-month period, beyond those restrictions enumerated in Section 24-50 of the James City County Zoning Ordinance.
- vii. *Enhanced Landscaping:* Conditions ensuring enhanced landscaping at the site to address issues of screening.

\_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
William C. Porter  
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	___	___	___
SADLER	___	___	___
HIPPLE	___	___	___
LARSON	___	___	___
ICENHOUR	___	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January, 2018.

## **RESOLUTION**

### **TOURIST HOME SPECIAL USE PERMIT GUIDELINES POLICY**

WHEREAS, during the course of recent public hearings, the Planning Commission and the Board of Supervisors expressed a desire for a policy to guide the review of Special Use Permit (SUP) applications for the tourist home use; and

WHEREAS, on November 1, 2017, the Planning Commission initiated consideration of amendments to the Zoning Ordinance to permit short-term residential rentals; and

WHEREAS, as part of this consideration, a new definition for the use of tourist home has been proposed whereby tourist homes are further distinguished from other permitted forms of short-term residential rentals; and

WHEREAS, at its November 9, 2017 meeting, the Policy Committee endorsed proposed amendments to the Zoning Ordinance as well as draft guidance policies to address the review of SUP applications for homestays and tourist homes; and

WHEREAS, at its December 6, 2017 meeting, the Planning Commission endorsed the proposed Zoning Ordinance revisions and draft policy language by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following:

### **TOURIST HOME SPECIAL USE PERMIT GUIDELINES POLICY**

#### **Purpose**

The purpose of the Tourist Home SUP Guidelines is to provide clear guidelines to the application for and review of SUPs allowing tourist homes in appropriately zoned areas.

#### **Review Criteria**

While often occurring in residential areas and primarily operating in residential structures, the tourist home use is commercial in nature, does not presume a residential primary use of the home, and can include such uses as traditional bed and breakfasts or the short-term rental of entire homes by owners not residing at the property. As such, the impacts from this use may differ from other short-term residential rentals, such as homestays, which require that the primary use of the home remain residential. Any application for a tourist home requiring an SUP shall demonstrate substantial conformance to the following provisions:

- i. The intensity of the proposed tourist home operation including the amount of parking permitted or the number of days of operation per year, should complement the residential character of the area; and
- ii. Have traffic, noise, lighting and other impacts similar to surrounding residential uses; and
- iii. Generally be located on collector or arterial roads; and
- iv. Provide adequate screening or buffering of guest parking or outdoor common areas.

Permit Conditions

In consideration of such an application, and given the unique qualities of each proposed site, the Board of Supervisors may require conditions intended to limit the intensity and impacts of the use. These may include, but may not be limited to, the following as applicable:

- i. *Access*: No additional access, other than existing driveways or entries, shall be added to the subject property.
- ii. *Occupancy*: Occupancy of the tourist home, at the time of rental, shall not exceed the total occupancy equal to double-occupancy for each bedroom at the subject property.
- iii. *Parking*: No on-street parking shall be allowed for this use. No recreational vehicles, buses or trailers shall be parked on the adjoining street or visible on the property in conjunction with the tourist home use.
- iv. *Prohibition Against Signage*: Restriction on signage or advertising indicating the tourist home use at the site.
- v. *Enhanced Landscaping*: Conditions ensuring enhanced landscaping at the site to address issues of screening.

\_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
William C. Porter  
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January, 2018.

ZO-02-17STRR-TouristH-res

**Unapproved Minutes of the December 6, 2017  
Planning Commission Meeting**

**ZO-0002-2017. Zoning Ordinance Revisions to Permit Short-Term Residential Rentals**

Ms. Roberta Sulouff, Senior Planner, stated that during the course of two public hearing cases, members of both the Planning Commission and the Board of Supervisors expressed a desire for a policy addressing the emerging issue of short-term residential rentals, also known as homesharing. Ms. Sulouff stated that this request was echoed at the May 23, 2017, Joint Board of Supervisors and Planning Commission Work Session and again at the Planning Commission's November 1, 2017 meeting, at which the Commission formally initiated the consideration of Zoning Ordinance amendments to permit short-term residential rentals in residentially zoned areas. Ms. Sulouff stated that staff has also received several public inquiries and conceptual plan applications from citizens interested in pursuing this use on their properties.

Ms. Sulouff stated that during the 2017 General Assembly Session, the legislature approved SB 1578 which allows a locality to create a short-term rental registry. Ms. Sulouff stated that this legislation does not prohibit, limit, or otherwise supersede existing local authority to regulate the short-term rental property through general land use and zoning authority.

Ms. Sulouff stated that on July 13, 2017, the Policy Committee met to discuss initial planning for policies and Ordinance amendments to address the emerging topic of short-term residential rentals. Ms. Sulouff stated that at that meeting, the Committee expressed interest in pursuing a hybrid approach to permitting such rentals, similar to the approach taken during the recent amendment process addressing rural event facilities, wherein certain aspects of the use would be permitted by-right and others would require the issuance of an SUP. Ms. Sulouff stated that the Committee directed staff to research and develop draft language to define and develop a permitting process for short-term residential rentals. Ms. Sulouff stated that staff met with the Committee again at its September 16, November 9 meetings to receive feedback on draft Ordinance and policy language. Ms. Sulouff stated that staff incorporated feedback from these meetings, as well as feedback from the Commissioner of the Revenue and the County Attorney, into the language in the attached policies and amended ordinances.

Ms. Sulouff stated that staff has worked to provide draft language that makes clear distinctions between uses based on the intensity and nature of those uses with the intent of providing transparency for the applicant and clarity to the Commission and the Board of Supervisors.

Ms. Sulouff stated that staff has also developed performance standards that will assist staff, the Commission and the Board in reviewing SUP conditions for short-term rentals. Ms. Sulouff further stated that the policy attempts to draw distinctions between the residential uses that fall under the Homestay definition and the more commercial uses that fall under the tourist home definition.

Ms. Sulouff stated that the Ordinance amendments, performance standards and administrative policy provide a logical and predictable framework for short-term residential rentals in the County.

Ms. Sulouff stated that staff recommends that the Commission recommend approval of the ordinance amendments and the administrative policy to the Board of Supervisors.

Mr. Krapf expressed appreciation for staff's efforts in preparing the Ordinance amendments. Mr. Richardson inquired how the administrative review fee would be collected.

Ms. Sulouff stated that the fee is the same as the Conceptual Plan review fee and will be collected at the time of submittal as all other Planning fees are collected.

Mr. Wright inquired if Airbnb falls under the category of Homestay.

Ms. Sulouff stated that Airbnb is a medium for many different types of rentals.

Ms. Sulouff stated that a tourist home could be rented through Airbnb well as a Homestay. Ms. Sulouff stated that the Homestay is required to be the owner's primary residence. Ms. Sulouff stated that Homestays are what you generally find on Airbnb.

Mr. Wright inquired how the County would ensure that the properties are not in violation of home owners association (HOA) restrictions.

Ms. Sulouff stated that the County does not enforce HOA covenants which are private matters; however, the process and application could certainly be developed to notify the applicant that they must ensure that they are in compliance with HOA covenants.

Mr. Holt stated that staff will be developing a customer service guide for the process and similar to the guide for Chicken Keeping applications it would require that the applicant confirm that the HOA does not have any restrictions that would prevent short-term rental of the property.

Mr. Haldeman inquired if the proposed amendments would remove the number of rooms that can be rented as a tourist home.

Ms. Sulouff confirmed that the new definitions for tourist home removes that distinction. Ms. Sulouff stated that since tourist homes require an SUP it is possible for the applicant to request fewer or more rooms based on the property.

Mr. Krapf opened the Public Hearing.

Ms. Beth Hall, 116 Lake Drive, addressed the Commission in opposition to the Ordinance amendments. Ms. Hull requested that short-term rentals not be allowed in the R-1 District.

Mr. James Bradley, 104 Malvern Circle, addressed the Commission in opposition to the Ordinance amendments and requested that short term rentals not be permitted in the R-1 District.

As no one else wished to speak, Mr. Krapf closed the Public Hearing.

Mr. Krapf opened the floor for discussion by the Commission.

Mr. Richardson stated that since the General Assembly did not preempt a locality's ability to regulate short-term rentals, it falls to the locality to develop ordinance language and standards to govern this type of activity and ensure it will be in keeping with the character of the community.

Mr. Wright inquired if the County could incorporate state law into the Ordinance that is being adopted.

Mr. Holt clarified that the state has not adopted laws or policies related to short-term rentals to preempt local zoning ordinances. Mr. Holt stated that the County's language related to the registry does come directly from State Code. Mr. Holt noted that the County is not requiring the \$500 registry fee which is more appropriate for localities that do not require business licenses or require review fees.

Mr. Krapf stated that in addition to bringing the registry language over from State Code, the amendments and policy guidelines were developed to make conflicting guidelines more consistent.

Mr. Wright noted that the registry language allows the County to deny or revoke the ability to do short-term rentals if there are violations. Mr. Wright inquired about the types of violations that would apply.

Mr. Holt stated that this would be violations of local code.

Mr. Hlavin clarified that it could include violations of local codes such as Building Code violations, Zoning violations or violation of the registry ordinance. Mr. Hlavin stated that multiple violations would allow the Commissioner of the Revenue to prohibit short-term rentals at that location.

Mr. Wright inquired if, after the Ordinance amendments are adopted, a neighborhood could establish new covenants that would prohibit short-term rentals.

Mr. Hlavin stated that the Ordinance amendments would not trump existing HOA covenants. Mr. Hlavin noted that there is a very specific legal process requiring concurrence of all property owners to amend or establish new covenants. Mr. Hlavin noted that enforcement of HOA covenants is a private action of the HOA against the homeowner.

Mr. Schmidt inquired if the County could take action if it were reported that a property has not complied with the registration process.

Mr. Hlavin confirmed.

Mr. Haldeman inquired if Rental of Rooms is permitted in the R-1 Zoning District.

Ms. Sulouff stated that Rental of Rooms currently requires an SUP in the R-1 Zoning District. Ms. Sulouff stated that under the current language rental of rooms applies to both long-term and short-

term rentals. Ms. Sulouff stated that if the Ordinance amendments are approved, Rental of Rooms will only apply to long-term uses that exceed the definition of family.

Mr. Haldeman inquired if Homestays would be permitted in R-1 if the Ordinance amendments are approved.

Ms. Sulouff stated that currently Tourist Homes are not permitted in the R-1 Zoning District. Ms. Sulouff stated that Rental of Rooms which currently encompasses short-term rentals requires an SUP. Ms. Sulouff stated that currently there are no by-right uses for short-term rentals in the R-1 Zoning District.

Ms. Sulouff stated that if the ordinance amendments are approved, there will be a by-right option to rent one room in the owner's primary residence for less than 180 days.

Mr. Haldeman inquired if the by-right option is a Homestay.

Ms. Sulouff confirmed.

Mr. Haldeman inquired if registration would be required for Homestays.

Ms. Sulouff stated that they would need to register, have a business license and pay taxes.

Mr. Schmidt inquired if the County could note on the customer service guide that the HOA could take legal action if the applicant is in violation of HOA covenants.

Mr. Hlavin stated that the County could note that County approval does not supersede HOA covenants which can be enforced by that private organization.

Mr. Krapf stated that in addition to making the process consistent for all zoning districts, the by-right use is only for one room rental in a property owner's primary residence with a limit on the number of days of operation. Mr. Krapf stated that anything outside of that would require an SUP. Mr. Krapf stated that the strength of the process lies in the guidelines which allow for conditions to be applied to address specific concerns for each property. Mr. Krapf further stated that this will bring an underground economy out in the open and minimize the problems that arise. Mr. Hlavin clarified that in the A-1, R-8 and R-4 Zoning Districts, the one room restriction does not apply to Homestays.

Mr. Schmidt made a motion to recommend approval of the Ordinance amendments and the proposed policies for Tourist Homes and Homestays.

On a roll call vote the Commission voted to approve ZO-0002-2017, Zoning Ordinance Revisions to Permit Short-Term Residential Rentals and the proposed policies for Tourist Homes and Homestays (6-0).

**MINUTES**  
**JAMES CITY COUNTY POLICY COMMITTEE**  
**REGULAR MEETING**  
**Building A Large Conference Room**  
**101 Mounts Bay Road, Williamsburg, VA 23185**  
**November 9, 2017**  
**4:00 PM**

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**A. CALL TO ORDER**

Mr. Jack Haldeman called the meeting to order at approximately 4 p.m.

**B. ROLL CALL**

Present:

Jack Haldeman, Chair  
Rich Krapf  
Heath Richardson  
Danny Schmidt

Absent:

Felice Pete

Staff:

Tammy Rosario, Principal Planner  
Christy Parrish, Zoning Administrator  
Roberta Sulouff, Senior Planner  
Lauren White, Planner  
Tom Leininger, Community Development Assistant  
Max Hlavin, Assistant County Attorney  
Darryl Cook, Assistant Director of Stormwater and Resource Protection, Floodplain Manager

**C. MINUTES**

1. October 12, 2017 Meeting Minutes

Mr. Rich Krapf made a motion to Approve the October 12, 2017, meeting minutes.

The motion passed 4-0.

**D. OLD BUSINESS**

1. Case No. ZO-0001-2017. Proposed Amendments to the Zoning Ordinance, Division 3. Floodplain Area Regulations – Stage III

Mr. Jack Haldeman opened the discussion.

Ms. Christy Parrish stated that the purpose of the Zoning Ordinance amendment was to add a separate construction standard for small accessory structures being located in the floodplain. She stated that staff has also received feedback from the Department of Conservation and Recreation (DCR) which she would review item by item.



Ms. Parrish stated that the first page of the ordinance defines an accessory building or structure as non-residential. Ms. Parrish stated that the next change is in Section 24-588 where Item C states that staff will keep all of the records in perpetuity. She stated that the change would be in compliance with DCR. Ms. Parrish stated that the next change is in Section 24-590. She stated that flood-prone areas not defined by a study are not enforceable; therefore, it was recommended by DCR to remove the reference from the ordinance. She stated that the Federal Insurance Agency (FIA) was changed to Federal Emergency Management Agency (FEMA).

Mr. Haldeman asked how the changes would affect the insurance rates of the County.

Ms. Parrish stated that the recommendations were from DCR and they would not have any impact on the insurance rates.

Ms. Parrish continued summarizing the ordinance changes. She stated that the next change to the ordinance is in Section 24-592. She stated the language clarifies that a permit is required for all proposed construction and other developments, including the placement of manufactured homes, within the floodway or any floodplain district. Ms. Parrish stated that the next ordinance change is in Section 24-595 (2) and the information did not change from the previous meeting regarding floodproofing standards. She stated that the ordinance change in Section 24-595 (7) stated that requirement applies to all floodplain zones. Ms. Parrish stated that Section 24-595 (5) states that nonresidential structures may use dry floodproofing instead of watertight floodproofing.

Mr. Heath Richardson asked what the reasoning was behind adding the text regarding an application being reviewed to ensure that the proposed construction would be reasonably safe.

Ms. Parrish stated that the purpose is to make sure any new construction or any addition would not impact the floodplain. She stated that for Section 24-595 (9) accessory structures shall comply with specific elevation or floodproofing requirements in Section 24-595 (2) or conform to the standards in Section 24-595 (9). She stated that the Planning Director recommended that an accessory structure should not be used to store hazardous material as listed in Section 24-593. She stated that hazardous material could cause damage. She stated that all other federal and state permits shall be obtained along with a building permit. Ms. Parrish stated that Section 24-597 clarifies the regulations for replacing a manufactured home. She stated that the permanent foundation shall be elevated in accordance with the construction standards identified in Section 24-595. She stated that in Section 24-598 staff added a phrase stating that the anchoring and elevation would depend on the floodplain it is located in. She stated that in Section 24-603 (13) no variance shall be granted for any accessory structure to be wet floodproofed if that structure exceeds 600 square feet.

Ms. Parrish stated that DCR has reviewed the amended ordinance twice. She stated that the County is scheduled to be audited in 2018, and these revisions are expected to put the County in a good position for the audit.

Mr. Richardson asked what the timeline would be going forward.

Ms. Parrish stated that the advertisement for the December Planning Commission (PC) is currently being worked on and then the ordinance would proceed to the Board of Supervisors (BOS) in January.

Mr. Danny Schmidt asked if the DCR was involved in recommending the two-foot freeboard.

Ms. Parrish stated that DCR does not suggest freeboard recommendations. She stated that freeboard is a higher standard and that the County requires two feet.

Mr. Haldeman asked for a motion to recommend the ordinance changes to the PC.

Mr. Richardson made a motion.

Motion passed 4-0 by voice vote.

2. Zoning Ordinance Revisions to Permit Short-Term Residential Rentals - Stage III

Ms. Roberta Sulouff presented a graphic to the Policy Committee.

Mr. Rich Krapf asked if an Airbnb is considered a homestay.

Ms. Sulouff stated that an Airbnb is a medium to rent a home. She stated that someone would use Airbnb to rent the room out.

Mr. Krapf stated that a person could reserve a tourist home or short-term rental through Airbnb and that it depends on the intensity of the dwelling.

Ms. Sulouff confirmed. She stated that the proposed amendments would only have two types of short-term rentals. She stated that those are homestays and tourist homes.

Mr. Haldeman asked where rental of rooms fall in these definitions.

Ms. Sulouff stated that rental of rooms would be long-term rentals exceeding the family definition.

Mr. Richardson asked if a tourist home can be a primary residence.

Ms. Sulouff confirmed.

Mr. Haldeman asked what the definition of transient would be.

Ms. Lauren White stated that the transient definition is located in the Commissioner of Revenue section of the ordinance in Chapter 20.

Ms. Sulouff stated that the intent is to include the definition in the zoning ordinance.

Ms. Sulouff stated that during the September meeting the Policy Committee had suggested feedback on the proposed draft language to address short-term rentals. She stated that staff has prepared more formal draft language. She stated that the language is similar to what was presented in September. She stated that the updated definitions draw a more clear distinction for tourist homes being more commercial and homestay being residential. Ms. Sulouff stated that previously, the rental of rooms had been interpreted to include both. She stated that the updated use-list for all residential zoning districts is also included. She stated that homestays of one room are permitted in all residential zoning districts. Ms. Sulouff stated that homestays with two rooms or more are more intense and require a Special-Use Permit (SUP) in all but a few zoning districts. She stated that a tourist home requires an SUP in most zoning districts. She stated that the new ordinance for tourist homes in addition to homestays package includes a guidance policy. She stated that staff recommends the more intense tourist home to be geographically constrained. She stated that they should be located on collector or arterial roads. She stated that staff would like the Policy Committee's feedback regarding the tourist home policy concerns raised during recent public hearings for tourist homes. She stated that the proposed definitions and performance standards are intended to create a logically consistent and predictable framework for short-term rentals. She stated that staff is seeking

Policy Committee feedback on the proposed changes. She stated that staff would include this feedback in future draft language to the PC at the December PC meeting.

Mr. Krapf stated that the homestay limits the number of separate contracts. He asked if tourist home can have the same limitations. Mr. Krapf stated that a home with five rooms could have five separate contracts. He stated that a tourist home does not require the owner to be onsite. He stated that his concern is with the potential for disruption. He asked if it would be worth adding the contract restriction to tourist home.

Ms. Sulouff stated that each tourist home case could have that limitation with the SUP process. She stated that staff would advise putting the limitations in the policy language because the tourist home use includes bed and breakfasts and boarding homes, and not just private homes. She stated that those specific business models rely on the separate contracts. She stated that most recent cases could have included a single contract per night restriction.

Mr. Richardson expressed concern regarding the equity of local hotels and the unfair competition. He asked how tourist homes with multiple contracts would be handled.

Ms. Sulouff stated that restricting the contracts for tourist homes overall would impact applicants for bed and breakfasts as bed and breakfast fall under the tourist home use. She stated that if such a restriction was added, a new definition would be needed to differentiate bed and breakfast. She stated that as the PC and BOS see individual cases there will be individual conditions applied. She stated that for the most recent tourist home there could be specific guidelines.

Mr. Schmidt asked if a condition limiting contracts per night could be applied to the most recent tourist home case.

Ms. Sulouff stated that the PC asked staff to add such a condition. She stated that when the case is presented to the PC in December, there will be an added condition.

Mr. Haldeman stated that he liked the idea of applicants providing their contact information to neighbors.

Mr. Schmidt agreed. He asked if there was a mechanism to make sure applicants notify neighbors.

Ms. Sulouff stated that a possible idea is similar to the adjacent property letters for site plans. She stated that when a site plan comes in, applicants are required to submit a sample letter and a list of addresses. She stated that the application could have that attachment.

Mr. Haldeman stated he thought that it would help neighbors feel more comfortable living near a tourist home.

Mr. Richardson asked if other municipalities use an adjacent property notification method.

Ms. Lauren White stated that Blacksburg requires neighbors to be notified if a wall is being shared such as townhome.

Ms. Sulouff stated that Roanoke publishes all of their registered transient listings on their website. She stated that staff has not explored the feasibility of that method yet for James City County. She stated that in that example consumers can check to see if the person they rent from went through the proper procedures.

Mr. Richardson stated that he was in favor of a website-based registry for public access.

Mr. Krapf stated that this method would help the applicant and reduce the extra work of sending out letters.

Ms. Tammy Rosario stated that the application can state that the contact information would be disclosed on the website.

Mr. Max Hlavin stated that the registry could be published.

Mr. Haldeman stated that the Policy Committee was in favor of the registry system being published.

Mr. Krapf asked if the condition restricting the number of contracts was due to the proximity to other residential homes.

Ms. Sulouff stated that the condition restricting the number of contracts is a performance standard for homestay. She stated that the intention of the condition to limit the intensity of the use.

Mr. Schmidt asked what would happen if there were any disputes between neighbors.

Mr. Krapf stated that it would be a homeowner issue and not so much a County issue.

Mr. Richardson asked what other definitions were needed besides transient. He asked if Chapter 20 would be referenced in the policy.

Ms. Sulouff stated that the homestay and rental of rooms' definitions were created. She stated that tourist home was amended and the materials show the original with a strike-through. She stated that the intent was to provide further clarification of the distinctions between the uses.

Ms. White stated that, according to Chapter 20, the definition of transient means any individual or group of same individuals who, for a period of fewer than 30 consecutive days, either at his own expense, or at the expense of another, obtains lodging at any hotel as defined herein. She stated that hotel means any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house, travel campground or tourist camps, or other lodging place within the County offering lodging, as defined herein, for compensation, to any transient as defined herein.

Ms. Sulouff stated that the definition presented in the previous meeting modified the definition of transient from Chapter 20 to create less confusion.

Mr. Richardson stated that the Policy Committee is comfortable with the definition as found in September's meeting materials.

Ms. Sulouff stated that the transient definition was presented last month. She stated that the definition of transient is a period of less than 30 days and specifically relating to the lodging of occupants. She stated that staff defines transient as a period of time.

Mr. Haldeman stated that if there were not any other questions or discussion then a motion would need to be made to move the draft ordinance to the PC on December 6.

Mr. Richardson made a motion to move to the PC.

Motion passed 4-0 by voice vote.

Ms. Sulouff stated that there was one member of the public attending the meeting.

Mr. Krapf stated that the Policy Committee would listen to comments made from the public.

Ms. Patricia Spayd, 3550 Cedar Branch, stated that she opens her home up for people to stay with her for a couple of nights. She stated that she is a widow and a disabled veteran and has lived in the County for eight years. She has had good experiences with having people stay with her. She stated that women tend to stay with her because they feel safe. She stated that she would be in favor of the language as proposed.

Mr. Richardson asked if they expect any pushback from Homeowners Associations (HOA).

Ms. Sulouff stated that she has not received any feedback from HOA's.

Mr. Richardson stated that, like chicken keeping, he sees HOA's becoming more restrictive on homestays.

Ms. Sulouff stated that the County can't force an HOA to allow homestays.

Ms. Parrish stated that the chicken keeping application states that the County cannot supersede the HOA. She stated that the new application could have similar text.

**E. NEW BUSINESS**

There was no new business.

**F. ADJOURNMENT**

Mr. Richardson made a motion to Adjourn. The motion passed 4-0.

Mr. Haldeman adjourned the meeting at approximately 4:45 p.m.

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Mr Jack Haldeman, Chair

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Mr. Paul Holt, Secretary

**MINUTES**  
**JAMES CITY COUNTY POLICY COMMITTEE**  
**REGULAR MEETING**  
**Building A Large Conference Room**  
**101 Mounts Bay Road, Williamsburg, VA 23185**  
**September 14, 2017**  
**4:00 PM**

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**A. CALL TO ORDER**

Ms. Robin Bledsoe called the meeting to order at approximately 4 p.m.

**B. ROLL CALL**

Present:

Robin Bledsoe, Chair  
Rich Krapf  
Jack Haldeman  
Heath Richardson  
Danny Schmidt

Staff:

Paul Holt, Planning Director  
Ellen Cook, Principal Planner  
Tammy Rosario, Principal Planner  
Christy Parrish, Zoning Administrator  
Scott Whyte, Senior Planner II  
Jose Ribeiro, Senior Planner II  
Lauren White, Planner  
Roberta Sulouff, Planner  
Alex Baruch, Planner  
Tom Leininger, Community Development Assistant  
Maxwell Hlavin, Assistant County Attorney

**C. MINUTES**

1. August 10, 2017 Meeting Minutes

Mr. Jack Haldeman made a motion to Approve the August 10, 2017, meeting minutes.

The motion passed 5-0.

**D. OLD BUSINESS**

1. Zoning Ordinance Revisions to Permit Short-Term Residential Rentals, Stage II

Ms. Bledsoe opened the discussion.

Ms. Sulouff stated that at the July Policy Committee meeting the Committee directed staff to come up with an approach addressing short-term residential rentals. She stated

that the Committee expressed interest in pursuing a hybrid approach which would create a system in which short-term residential rental uses would be subject to permitting and performance standards based on the intensity of the application. She stated that there are some by-right processes as well as an SUP process. She stated that staff proposes definitions to homestay, rental of rooms and tourist homes. She stated that staff have also included a proposed use list and a matrix which shows what is permitted by-right depending on the zoning district and intensity of the application. Ms. Sulouff stated that staff recommends performance standards. She stated that staff is seeking Policy Committee guidance on the draft language and the performance standards and that staff will make changes to the draft ordinance based on the feedback of the Policy Committee. She asked if there were any questions.

Mr. Richardson asked how the 180-day limit for 12 months was decided.

Ms. White stated that the 180-day mark would help keep the home's primary use as a residential property.

Ms. Sulouff stated that guidance from Building Safety and Permits suggested that 180 days is part of their requirements for a single-family home.

Mr. Schmidt asked if the homestay fees would be equitable and fair to the current bed and breakfast and hotels.

Ms. Sulouff stated that the administrative permit was designed for an application process, low in intensity and residential in character. She stated that the idea was to create a spectrum from mostly residential in use to mostly commercial in use.

Mr. Schmidt asked if there would be an annual reapplication.

Ms. Sulouff stated that this could be a provision. She stated that applicants would have to pay the transient occupancy tax.

Ms. Bledsoe stated that shared economy is happening and there are rentals already available. She stated that her concern would be if it was fair to hotels and paying of taxes. She stated that the General Assembly has given the County the ability to begin a database.

Mr. Haldeman stated that he was still unclear regarding the existing and proposed definitions.

Ms. Sulouff stated she would be able to describe each definition.

Mr. Haldeman asked why there are three different types of short-term rentals.

Ms. Sulouff stated that currently there are two uses: rental of rooms and tourist homes. She stated that under this proposal rental of rooms would be taken out of the transient category. She stated that rental of rooms would only address long-term rentals over and above the family definition. She stated that rental of rooms includes a landlord and tenant relationship. Ms. Sulouff stated that homestays depend on the intensity of the application and require a permanent resident and the renter cannot exceed 180 days a year. She stated that the tourist home does not require a permanent resident at the home. She stated that tourist home allows for commercial entities such as bed and breakfasts.

Mr. Haldeman asked which definition would require an administrative process.

Ms. Sulouff stated that a homestay would be permitted by-right with an administrative permit in all districts for one bedroom. She stated that homestays would be permitted by-right for any number of rooms for R-8, R-4 and A-1 districts.

Mr. Krapf stated that if a homeowner wants to rent out more than one room, depending on the zoning district, an SUP would be required.

Ms. Sulouff confirmed and stated that A-1, R-4 and R-8 do not require an SUP. She stated that for R-4 and MU, the amended ordinance is to remain consistent with the way that short-term rentals are permitted currently.

Mr. Schmidt asked how fire safety was included in the new ordinance.

Ms. Sulouff stated that the issue for fire safety is the ability to enforce it.

Ms. Rosario stated that the best route would be for staff to reconnect with Building Safety and Permits.

Ms. Sulouff stated that some other localities do enforce fire safety and require a yearly inspection. She stated that a complaint from another citizen could also require an inspection.

Mr. Richardson stated that hotels are required to have fire inspections and safety standards.

Ms. Bledsoe stated that sites like Airbnb require inspections; however, other advertising sites may not.

Mr. Schmidt asked if there would be any legal issues with the County if there would be a fire or accident.

Ms. Bledsoe stated that she believes the issues would fall on the homeowner.

Mr. Hlavin concurred that the County would not be accountable.

Mr. Schmidt stated that there could be a way to enforce fines on homestays if applicants do not comply.

Ms. Sulouff stated that the Homeowners Association (HOA) still overrides the policy of the County.

Mr. Richardson stated the policy of the County will help HOAs establish their policy.

2. Potential Amendments to the R-8, Rural Residential and Cluster Overlay Districts - Stage I

Ms. Robin Bledsoe opened the discussion.

Mr. Alex Baruch stated that on April 11, 2017, the Board of Supervisors (BOS)



adopted an initiating resolution. He stated that the BOS initiated amendments of the R-8, Rural Residential District and Residential Cluster Development, in order to address the provision of age-restricted housing, independent living facilities and specially permitted density bonuses. He stated that the memorandum provides background information about age-restricted housing, independent living facilities, the R-8 District and the Cluster Overlay District. He stated that the memorandum provides information about the potential amendments that could result from the language of the initiating resolution. He stated that staff would appreciate feedback from the Policy Committee in preparation for the November Policy Committee meeting.

Ms. Bledsoe asked Committee members if they had any questions.

Mr. Jack Haldeman stated that he was unsure on how he would quantify the need for age-restricted housing. He stated that the Comprehensive Plan detailed the growth of older aged people. He stated that there were not any figures that would quantify the need. He stated that many residents would prefer to age in place.

Ms. Bledsoe asked Mr. Haldeman to clarify if he was unsure of the need of 55 and older age-restrictive housing or the need for Continuing Care Retirement Community (CCRC) facilities.

Mr. Haldeman stated that he does not know what the need is for either of them. He stated that there is a difference between the people that already live here and want to stay here and the other group that are looking to move to James City County later in life and want a place that can take care of them. He asked if the residents of James City County see a need for more age-restrictive housing and if James City County believes more age-restrictive housing is needed.

Ms. Bledsoe stated that the need is already there with the variety of living facilities located around the County. She stated that this need is a product of the Baby Boomers and that many of them wish to reside here.

Mr. Haldeman asked how many more units would be needed and how do we encourage more facilities.

Mr. Heath Richardson stated that there is not a matrix showing the need compared to the population. He stated that the Parks & Recreation Department has done a lot of studies on the aging demographic. He stated that he did not know if other communities had a matrix on the need for assisted living facilities based on population.

Mr. Baruch stated that he was not aware of localities having such matrices; however, many of the adjacent localities discuss the need of age-restrictive living facilities in their Comprehensive Plans.

Mr. Richardson stated that Williamsburg Landing started the conversation. He stated that it would help if Mr. Baruch walked him through the Williamsburg Landing application process.

Mr. Baruch stated that the amendment would affect the County as a whole and that the initiating resolution asked staff to investigate R-8, Rural Residential, Residential Cluster Development, independent living facilities age-restricted housing and specially permitted density bonuses. He stated that by examining the items in the initiating resolution, staff

put together a list of amendments and implications in the memorandum. Mr. Baruch stated that the changes would impact properties in the R-8, Rural Residential Zoning District within the Primary Service Area (PSA) that are over two acres in size. Mr. Baruch stated that if a property met those criteria, under the new Ordinance they could apply for an age-restricted independent living facility. Mr. Baruch stated that he wanted to make it clear that the Williamsburg Landing Proposal and the initiating resolution are separate items with different directives.

Mr. Baruch stated that the Williamsburg Landing rezoning and Special Use Permit (SUP) proposal would add 135 independent living facility units to a 15.5-acre parcel of land. He stated that the units are split between apartments and duplexes. Mr. Baruch stated that the applicant came to the Development Review Committee (DRC) to gather insight about the proposal from the Planning Commission sub-committee. Mr. Baruch stated that independent living facilities are considered a residential use and proffers could not be accepted because of state legislation and direction from the BOS. Mr. Baruch stated that the applicant had moved through the Master Plan and SUP process up to Planning Commission consideration; however, some impacts could not be addressed via SUP conditions that would have been addressed by proffers. He stated that one of the impacts the application could not address without proffers include age restriction of the residents of the independent-dwelling units. Mr. Baruch stated that the applicant had met all of the submittal requirements and was ready to move forward to the Planning Commission, but decided to defer the case indefinitely when the initiating resolution was presented to the BOS.

Ms. Bledsoe stated the subject property is separate from the current Williamsburg Landing property.

Mr. Baruch stated the new parcel was not shown on the existing current Williamsburg Landing Master Plan.

Mr. Haldeman stated that the BOS approved the new mixed-use zoning ordinance. He asked if there is still a need to change the ordinance of other zoning districts since mixed-use allows age-restrictive housing and independent living facilities.

Mr. Baruch stated that the properties would still need to be rezoned to mixed-use and be fewer than five acres to take advantage of the ordinance amendment.

Mr. Haldeman stated that the mixed-use ordinance change increases the potential supply of properties that could be used for an independent living facility.

Mr. Krapf stated that proposals for this particular use will be market-driven. He stated that the Policy Committee's role is from a land use standpoint. He stated that the Comprehensive Plan has the demographics and that the County is an aging community.

Mr. Haldeman asked if the changes to the uses for the zoning district are aligned with the residents.

Ms. Bledsoe stated that the parcel that Williamsburg Landing wants to expand on is unique from the ordinance changes presented. Ms. Bledsoe asked how the Cluster Overlay District was added.

Mr. Krapf stated that it was an effort to increase density.

Mr. Baruch stated that the cluster overlay could allow 1-4 units per acre.

Ms. Bledsoe asked to skip to the potential amendments.

Mr. Baruch stated that the definition of independent living facilities could be amended to add an age restriction to the definition. He stated that the definition could be re-examined to make sure the definition is up-to-date.

Mr. Richardson asked how the age restriction would replace a proffer.

Mr. Baruch stated that a proffer for an independent living facility would state that an affidavit to verify the age of the residents of the facility would be required to be kept on file. Additionally, he stated that by amending the definition other classifications, such as disabilities, would be included.

Mr. Baruch stated that the next amendment would be to include specific details on the services that needed to be done at the facility.

Ms. Bledsoe asked why the first change would not include the services.

Mr. Baruch stated that the current definition does not specifically state that services are required.

Mr. Baruch stated that the third amendment would include a clarification of the types of units allowed on the parcel.

Ms. Cook stated that the type of unit for the independent living facility must be one of the unit types currently allowed in the zoning district.

Mr. Haldeman asked if the changes would affect the definition of independent living facility in all of the residential zoning districts that allow the use.

Mr. Baruch confirmed.

Mr. Krapf asked if the cluster overlay overrides the zoning district.

Mr. Baruch confirmed.

Mr. Krapf asked if the changes to independent living facility would be overridden by the cluster overlay.

Mr. Baruch stated that the definition would extend across the zoning ordinance whenever independent living facilities were addressed.

Ms. Bledsoe stated that she had a concern as to why the cluster overlay was included in the initiating resolution.

Mr. Danny Schmidt stated that the density would increase.

Mr. Krapf stated that the tradeoff is higher density for more open space and other amenities. He stated that the cluster overlay removes some of the sprawl effect.

Mr. Baruch asked if the Policy Committee would like staff to continue with drafting the amendment.

Ms. Bledsoe confirmed.

Mr. Baruch stated that the next amendment would include the independent living facility contained within residential cluster development to the R-8 Residential District use list.

Mr. Baruch stated that the next change would be to allow for the independent living facility use to utilize cluster overlay in the R-8 Zoning District.

Mr. Schmidt asked if there were any parcels zoned R-8 outside the PSA.

Mr. Baruch stated that there are parcels outside the PSA. He stated that the cluster overlay states that the parcel must be two acres or more and within the PSA.

Ms. Bledsoe stated that she would like staff to move forward.

Mr. Baruch stated that the table regarding the differences between the current R-8 ordinance and the potential R-8 ordinance with cluster overlay is included in the memorandum along with the previously discussed changes.

Ms. Bledsoe asked if another facility similar to Williamsburg Landing could potentially be built.

Mr. Baruch stated that there are several factors to whether or not a facility like Williamsburg Landing would be built in other parts of the County. He stated that the R-8 Zoning District is intended to be rural and low density. He stated that the 1-4 units per acre would limit the density of the parcel.

Mr. Krapf asked for a summary of the final paragraph of the memorandum.

Mr. Baruch stated that the intent of the final paragraph was to ask the Policy Committee if they would like staff to go through the use list and bring the list up-to-date for the uses related to age-restricted living facilities.

Ms. Bledsoe stated that staff can go forward with the list.

Mr. Baruch stated that staff would do a strike-through version to allow Policy Committee members to see the changes.

Mr. Haldeman asked if uses such as grocery stores and pharmacies would be added to the use list as well.

Mr. Baruch stated that they would not be added to the use list because the initiating resolution did not ask staff to look into those.

Ms. Bledsoe asked if there were any questions.

## **E. NEW BUSINESS**

1. Adoption of a Revised Policy for Remote Participation in Meetings by Commission Members

Ms. Bledsoe opened the floor for discussion.

Mr. Hlavin stated that state law has changed regarding the participation policy. He stated that the new law is two meetings per year for remote participation.

Mr. Richardson asked if it was calendar year or fiscal year.

Mr. Hlavin stated that it is for the calendar year.

Mr. Paul Holt stated that the new law includes two remote participations for Policy Committee, two for DRC and two for Planning Commission.

Ms. Bledsoe asked if there were any questions. There were none.

Ms. Bledsoe asked the Policy Committee members if they were okay with forwarding the revised policy to the Planning Commission.

The Committee members concurred.

2. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Cover Memo - Stage I

Ms. Bledsoe opened the floor for discussion.

Mr. Hlavin stated that these potential amendments were previously covered by proffers. He stated that he is trying to get the amendments into the zoning ordinance.

Ms. Cook stated that the cover memorandum summarizes the topics and sets the stage for items that were previously covered by proffers. She stated that four topics are presented today. She stated that the water conservation topic would be handled by the James City Service Authority.

3. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Streetscape Policy - Stage I

Ms. Bledsoe opened the floor for discussion.

Mr. Whyte stated that the streetscape policy has been in place since 1999. He stated that the policy was created based on the 1997 Comprehensive Plan recommendations. He stated that the policy was amended in 2004 and 2010. He stated that the goal was to preserve a tree canopy along residential streets and to achieve a 20% canopy coverage within a 20-year period. He stated that the policy has worked well for the past 18 years. He stated that the policy has been applied to a countless number of cases. He stated that the policy has been reinforced by the Community Appearance Guide. Mr. Whyte stated that staff recommends two revisions. He stated that staff recommends amending the subdivision section of the zoning ordinance by drafting new streetscape ordinance language and requiring all new subdivisions to plant street trees on both sides of the street. He stated that staff recommends modeling the ordinance after York County's street tree ordinance and that the previous streetscape policy was also modeled after

York County. He stated that staff recommends keeping the existing streetscape policy in place to cover the approved subdivisions that have not been built out.

Mr. Haldeman asked if the marked-up version of the ordinance is the new streetscape guidelines policy.

Mr. Whyte stated that it was not the new policy and he will have an amended version for the Committee for the next meeting.

Ms. Bledsoe asked if the Committee wants staff to move forward.

Mr. Krapf confirmed and the rest of the committee agreed.

4. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Bicycle and Pedestrian Accommodations and Transportation Impact Analysis - Stage I

Ms. Bledsoe opened the floor for discussion.

Mr. Baruch stated that at the BOS and Planning Commission work session they asked staff to research the ability to add transportation, bicycle and pedestrian accommodations as binding master plan elements as well as reviewing and amending the zoning ordinance if necessary. He stated that transportation impacts created by developments requiring legislative approval are addressed by three administrative policies and corresponding submittal requirements. He stated that the first accommodation is the Pedestrian Accommodation Master Plan, which was implemented as a binding resource in determining pedestrian accommodation requirements external to a development unless required by the pedestrian accommodation section of the zoning ordinance. He stated that the second is the Regional Bikeways Plan, which encourages the coordinated development of a comprehensive system of bikeways throughout the region. He stated that the third policy is the Traffic Impact Analysis Submittal Requirements Policy, which provides guidance to applicants regarding the minimum content required for a traffic impact analysis. Mr. Baruch stated that some examples are multi-use paths, turn lanes and traffic lights. He stated that these improvements are limited without the use of proffers. He stated that the staff suggests the Policy Committee consider including the language in Section 24-35 Pedestrian Accommodation to extend the requirements of the section to bicycle facilities per the adopted Regional Bikeway Plan. He stated that unlike bicycle and pedestrian accommodations, general traffic impact improvements cannot be addressed through submittal or master plan requirements because there is no ability through state code to do so. He stated that staff can look into how other localities handle traffic improvements. He stated that staff would take any feedback to bring to the Stage II meeting.

Mr. Richardson stated that in the past members of the public have expressed concern with bicycle improvements.

Mr. Krapf stated that the bikeway plan is a regional bikeway plan requiring other localities to partner in as well.

Mr. Holt stated that without proffers, there is no way to implement the Regional Bikeway Plan.

Mr. Schmidt asked if York County and the City of Williamsburg are doing the same.

Ms. Sulouff stated that the City of Williamsburg did not accept proffers before; however, they put more funding towards bike and pedestrian impacts.

Mr. Baruch stated that York County does have certain aspects of the bike plan in their ordinance. He stated that staff can bring some additional benchmarks to show how other localities are handling bikeways. He stated that many localities have pedestrian accommodations.

Mr. Holt stated that the City of Williamsburg maintains its own right-of-ways. He stated that they do not go through the Virginia Department of Transportation (VDOT).

Mr. Krapf asked if the Committee would like staff to look at traffic impacts.

Ms. Bledsoe confirmed.

Mr. Baruch stated that submittal requirements could be a way to get the impacts upfront; however, there is not any enabling legislation to allow that change. He stated that staff will look at other localities for examples. He stated that off-site improvements cannot be achieved unless VDOT requires the improvement.

Mr. Holt stated that staff may not be able to come up with a solution to mitigate traffic impacts. He stated that VDOT cannot require off-site traffic improvements.

Ms. Sulouff stated that a traffic impact analysis can still be required for any case that reaches 100 peak hour trips. She stated as examples of off-site improvements, that there is no way to compensate for turn lanes or traffic signals.

Mr. Krapf asked if an applicant states they will build turn lanes would that be like a proffer.

Mr. Holt stated that staff would have to go by the applicant's word as no proffers for residential rezoning can be accepted.

Mr. Haldeman asked if these are minimal changes to the County.

Mr. Holt stated that the changes are worth it in staff's recommendation.

Ms. Sulouff stated that off-site changes cannot be included on a master plan.

Mr. Baruch stated that adding bike lane requirements to the pedestrian accommodation section of the zoning ordinance would mandate that any new major subdivision or site plan would be reviewed in accordance with the pedestrian accommodations section.

5. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Archaeological Policy - Stage I

Ms. Bledsoe opened the floor for discussion.

Ms. White stated that the Archaeological Policy was adopted in 1998. She stated that

the policy seeks to identify and protect areas where significant archaeological potential exists. She stated that according to the submittal requirements, the submission of a Phase 1A Archaeological Study is required for all sites identified as ultra- or highly-sensitive on the Comprehensive Plan. She stated that for all legislative cases, the Archaeological Policy suggests adding a condition or a proffer that requires a Phase 1 study prior to land disturbance. She stated that a Phase 1 study identifies and defines the actual site boundaries for any identified archaeological resources. She stated that the policy also lays forth any procedures and guidelines to follow when staff interpret the condition or proffer. She stated that staff suggests including the contents of the current Archaeological Policy into a zoning ordinance.

Mr. Schmidt stated that he did not have any questions and that he agreed.

Ms. Bledsoe stated that she did not have any questions.

6. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Natural Resource Policy - Stage I

Ms. Bledsoe opened the floor for discussion.

Mr. Ribeiro stated that the Natural Resource Policy was modeled after the Archaeological Policy and was adopted in 1999. He stated that James City County is part of the Chesapeake Bay ecosystem. He stated that the policy applies to SUP applications and rezoning applications. He stated that a submittal requirement for a legislative case is that a natural resource inventory is submitted. He stated that if the inventory confirms that a natural resource exists, then further steps are taken. He stated that a management plan and/or mitigation plan would then be required. He stated that York County has a requirement for submittal of a natural resource inventory as part of their submittal requirements. He stated that staff recommends adding the Natural Resource Policy to the zoning ordinance.

Ms. Bledsoe stated that she supports the change.

Mr. Krapf asked if the current policy includes the Biological and Conservation Data system to identify natural resources.

Mr. Ribeiro stated that there was a study called the Conservation Planning for the Natural Areas of the Lower Peninsula of Virginia. He stated that the study identifies areas of importance.

Mr. Krapf asked if new provisions need to be added to the new ordinance.

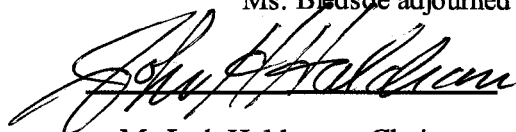
Mr. Ribeiro stated that staff will make sure to capture all aspects of the Natural Resource Policy.

Ms. Bledsoe asked if there are any questions. There were none.

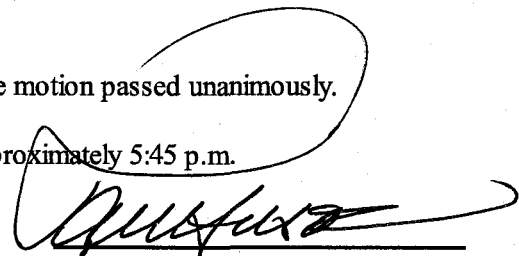
## F. ADJOURNMENT

Mr. Krapf made a motion to Adjourn. The motion passed unanimously.

Ms. Bledsoe adjourned the meeting at approximately 5:45 p.m.



Mr Jack Haldeman, Chair



Mr. Paul Holt, Secretary



**MINUTES**  
**JAMES CITY COUNTY POLICY COMMITTEE**  
**REGULAR MEETING**  
**Building A Large Conference Room**  
**101 Mounts Bay Road, Williamsburg, VA 23185**  
**July 13, 2017**  
**4:00 PM**

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**A. CALL TO ORDER**

Mr. Rich Krapf called the meeting to order at approximately 4 p.m.

**B. ROLL CALL**

Present:

Mr. Rich Krapf, Acting Chair  
Mr. Danny Schmidt  
Mr. Heath Richardson  
Mr. Jack Haldeman

Absent:

Ms. Robin Bledsoe

Staff:

Mr. Paul Holt, Planning Director  
Ms. Tammy Rosario, Principal Planner  
Ms. Lauren White, Planner  
Ms. Roberta Sulouff, Planner  
Mr. Tom Leining, Community Development Assistant  
Mr. Maxwell Hlavin, Assistant County Attorney

**C. MINUTES**

1. Minutes Adoption - May 11, 2017 Regular Meeting

Mr. Jack Haldeman made a motion to Approve the May 11, 2017, meeting minutes.

The motion passed 3-0-1, with Mr. Rich Krapf abstaining, as he was not present at the meeting.

**D. OLD BUSINESS**

There was no old business.

**E. NEW BUSINESS**

1. Zoning Ordinance Revisions to Permit Short-Term Residential Vacation Rentals

Ms. Roberta Sulouff stated that during the course of two recent public hearing cases, members of both the Planning Commission (PC) and the Board of Supervisors (BOS)

expressed their desire to address the emerging issue of short-term residential vacation rentals, also known globally as home-sharing. She stated that since the last public hearing, staff have received several Conceptual Plan Applications for this use. She stated that the Ordinance currently addresses several uses such as transient occupancy ranging from more residential in nature to expressly commercial in character. She stated that members of the BOS stated that none of the existing uses directly address the emerging movement of home-sharing that has a residential footprint.

Ms. Sulouff stated that staff is recommending a two-pronged approach of multiple stages. She stated that first, staff is recommending the creation of a new use and definition to address the types of short-term residential rental applications that have been received by staff. She stated that staff recommends creating a new definition for the use homestay.

Ms. Sulouff also stated that staff is seeking the Policy Committee's direction in the pursuit of a new policy and permitting standards to address the new use. She stated that permitting standards, including, but not limited to the ones located in Attachment No. 3, could be used to build a framework or a supplemental policy under which future Special Use Permit (SUP) applications could be reviewed.

Ms. Sulouff stated that staff recommends creating a definition and permitting policy that addresses the residential character of the use while considering compliance and providing clarity to those wishing to pursue the use and those that review future applications for the use. She stated that staff is planning to take the Committee's feedback to further research any concerns and to begin drafting zoning ordinance language to be reviewed in stage two of this process.

Mr. Rich Krapf thanked Ms. Sulouff and asked if the Committee had any questions for staff.

Mr. Jack Haldeman asked how the new Ordinance would differ from the rental of rooms or tourist homes classifications. He stated that he read both of them and that they both apply to the Airbnb concept.

Ms. Sulouff stated that rental of rooms and tourist homes both apply to short-term rentals in different ways. She stated that rental of rooms is not defined in the definition section and it is more of an interpretation typically applied to a bed and breakfast or to situations in which people want to rent rooms above and beyond the family definitions. She stated that home-sharing would address the applications that are coming in, where people own homes and reside in them and want to rent out a room at a transient rate to people for a night. She stated that tourist home is traditionally interpreted as a vacation home rental where it wouldn't require anyone to be there at the time of the rental. She stated that the proposed definition would create a new class and would be clearly secondary to a residential use.

Mr. Haldeman asked if this would replace the current Ordinances or if it would be an addition.

Ms. Sulouff stated that staff is seeking the Committee's direction such as defining rental of rooms, but right now staff is proposing home-share in addition to the other uses.

Mr. Krapf asked how accessory homestay ties into the health, safety and welfare of the

surrounding neighborhood.

Ms. Lauren White stated that the two examples put the homestay use in the home occupation zoning code, then an additional layer is added to the homestay use. She stated that it may include limits such as the number of cars, noise and buffering to make sure the use is secondary to the primary residential use.

Ms. Sulouff stated that in both Charlottesville and Arlington County, with homestay being a home occupation, it becomes an administrative process rather than an SUP process. She stated that staff can explore ways to have the homestay fit in the SUP framework as well.

Mr. Heath Richardson stated that when he looked at the examples, he liked the Blacksburg example where there is a definition of homestay which provides two types of rentals. He stated that Type A defines the number of rooms and Type B has a caveat where the homeowners do not need to be at the residence. Mr. Richardson stated that the Blacksburg example provides more flexibility.

Mr. Danny Schmidt stated that the Blacksburg example also stood out to him. He stated that he initially voted against the two SUPs regarding homestays when he first started on the Planning Commission. Mr. Schmidt stated that the County already has a tourist home definition. He stated that his family has taken advantage of similar situations in other areas across the country. Mr. Schmidt stated that there haven't been many issues with Vacation Rental by Owner (VRBO).

Ms. Sulouff stated that VRBO would still come to the staff as an SUP application in most districts as they are a tourist home. She stated that the complaints received are anonymous.

Ms. Christy Parrish stated that there have been calls stating that houses have been seen on Airbnb websites. She stated that there are places in Kingsmill where these homes are permitted by-right. She stated that there will be times that the homes will show up in the R-2, Residential Zoning District and a letter would be sent out, stating that they are in violation with the Zoning Ordinance without an SUP approval.

Mr. Richardson stated that he noticed during previous BOS meetings that there are some citizens running businesses without an SUP approval and that depending on how homestay is defined, citizens would be able to legally run their business.

Mr. Krapf asked if having someone come in and clean their home or provide housekeeping duties violates the definition under the Arlington County example.

Ms. White stated that it would be allowed because it would be considered typical home maintenance.

Ms. Sulouff stated that Arlington County is trying to prevent someone living out of state, but has an inn-keeper function to allow an agent to act for them.

Mr. Schmidt asked if staff looks at the Airbnb websites.

Ms. Parrish stated that staff would only look up houses in violation if they were brought to staff's attention.

Mr. Schmidt stated he wants to prevent a lot of SUP applications coming in at once.

Mr. Richardson stated that the regulation for the Blacksburg example requires a floorplan.

Ms. White confirmed and stated that some localities require a floorplan and a site plan.

Mr. Richardson asked why staff thought that Blacksburg has that regulation. He asked if it could be that they are a university town or was it in place before or after the popularity of Airbnb.

Ms. White confirmed and stated that it was after the wave of popularity of Airbnb.

Mr. Schmidt asked if that applied to the other examples.

Ms. White confirmed.

Ms. Sulouff stated that there are other localities that have not made changes to their ordinance and there are cities like Williamsburg and Virginia Beach that are still in the developmental process.

Mr. Krapf asked what staff thought about the use of accessory structures for a home-share category.

Ms. Parrish stated that it would be a larger issue because there are limits on a secondary structure.

Mr. Krapf asked if this would only apply to the primary residential structure.

Ms. Parrish confirmed.

Mr. Paul Holt stated that it would complicate things more and put two homes on one property. He stated that it was up to the direction of the Policy Committee, but previous SUP conditions have attempted to ensure a single-family house continues to look like a single-family home.

Ms. Tammy Rosario stated that it is important to consider the additional impacts such as traffic.

Mr. Schmidt stated that he has heard from citizens that the number of cars at a home has a negative impact on the neighborhood.

Ms. Sulouff asked if parking would be an important permitting standard.

Mr. Schmidt confirmed.

Mr. Krapf stated that the A-1 and R-8 Districts are larger properties and the parking limitations could potentially be different. He asked if there should be a distinction in the Ordinance.

Mr. Richardson confirmed.

Mr. Schmidt confirmed. He stated that the tourism economy is important and keeping up with the times is important.

Mr. Haldeman asked if the County would limit the number of rooms, meals, owner presence and number of days.

Ms. Sulouff stated that staff is looking for feedback on those regulations.

Mr. Richardson stated that it is possible to be too restrictive. He stated that if there are two types, the property owner would announce which direction they are going. He stated that one type could be less restrictive. He stated there would be a burden on staff.

Ms. Parrish stated that it would depend on the number of people wanting to do a homestay and the number of complaints that would come in. She stated that she does not anticipate there being an issue, but a policy can be created that is straightforward.

Mr. Holt stated that staff would let the Policy Committee know what can and cannot be enforced. He stated that proper documentation could be provided ahead of time.

Mr. Krapf asked about the possibilities including limiting the number of residences on a street.

Ms. Sulouff stated that it was just an example from another locality. She stated that there was a concern from other localities regarding blocks where there are a lot of homes in one neighborhood renting out their houses. She stated that staff can look further into the other localities if need be.

Mr. Holt stated that there are issues regulating the number of homestays. He stated that Zoning Ordinances could potentially have separation distances between homes. He stated that it would limit the number of homes and it would be easier for staff to regulate.

Mr. Haldeman asked if Homeowners Associations (HOA) play a role.

Mr. Holt confirmed and stated that Zoning Ordinances can't trump covenants and declarations, as in the example of chicken keeping.

Mr. Schmidt stated that the HOA can be the more restrictive process. He stated that Airbnbs are going to keep happening and it is best to work with the homeowners.

Mr. Krapf asked if there would be a registration fee or keep just the business license component.

Mr. Schmidt stated that it is similar to the food truck situation.

Ms. Sulouff stated that creation of a registry would be outside of the Zoning Ordinance; however, the Policy Committee can get the process going. She stated that the homeowners could potentially register with the Commissioner of Revenue (COR), pay the transient occupancy tax, a potential application fee and possibly a registration fee.

Mr. Richardson stated that given the nature of the area, this would give the COR a tool for taxation.

Ms. Sulouff asked if there would be compliance with a registry.

Mr. Richardson confirmed.

Mr. Krapf asked if there wasn't a registry how the homestays would be tracked.

Ms. Sulouff stated that staff would keep track similar to the home occupations and the COR would keep track similar to other business licenses.

Mr. Krapf asked if there were any pros and cons for a registry on homestays.

Mr. Maxwell Hlavin stated that most localities are in the same spot in terms of the developmental process. He stated that it could be best to run the process through the COR.

Mr. Krapf asked if there would be a downside.

Mr. Hlavin stated that he does not see one. He stated that it is required to register with the COR to obtain a business license. He stated that this would give staff a mechanism to establish a fine.

Mr. Holt stated that the fine encourages homeowners to comply.

Mr. Schmidt stated that the COR would be a separate track from the process handled by planning staff.

Ms. Sulouff stated that it would be part of the planning process. She stated that staff can say that they can't approve their application without the business license.

Mr. Krapf asked Committee members if they would want a penalty associated with the failure to register their homestay.

Mr. Richardson confirmed.

Mr. Hlavin stated that the fee would not come through the policy process.

Mr. Richardson stated that there can be a reference to the need to register in the Zoning Ordinance.

Mr. Schmidt stated that it would help with the citizens in the County to see a penalty.

Mr. Richardson asked other Committee members if they preferred the Blacksburg example where the number of rooms is defined.

Mr. Haldeman stated that he wouldn't want a lot of rooms to be available to be rented out in a single home. He stated that he would have a concern with the competition with the hotels and the quality of neighborhoods together with the traffic generated. He stated that three to four rooms available to rent would be sufficient.

Ms. Rosario asked if the four-bedroom maximum would exclude rental of an entire home.

Mr. Haldeman stated that he would not want to allow rental of the entire home.

Ms. Parrish stated that many Airbnbs are full home rentals.

Mr. Richardson stated that staff could come up with some options where the host is present with limited rooms and then other options with no host present.

Ms. Sulouff asked if there were two types, would there be a difference in the applications.

Mr. Krapf asked the purpose of establishing two types. He asked what the end goal would be for establishing two types.

Mr. Richardson stated that Type A would be a resident that has a couple of rooms to rent out and Type B could be more of a hostel scenario.

Mr. Holt stated that there could be a number of different directions. He stated that there could be a locational pairing going with each type. He stated that the smaller homes with one to two bedrooms for rent are located in R-1 and R-2 Residential Districts. He stated the larger homes, where the homeowner rents out the entire house, could be located in the A-1 Zoning District or possibly located on major roads instead of internal to a subdivision. He stated that the smaller and easier homestays could be handled administratively and that the larger ones could have an SUP.

Ms. White stated that in the case of Blacksburg, the reason they break it down could be because the two different types may have different impacts on a neighborhood. She stated that it is possible to limit the number of days for Type A rentals and the number of days for Type B rentals. She stated that when the applicant fills out an application they state their intent.

Mr. Krapf stated that he liked the idea of having an Ordinance focused around Zoning Districts. He stated that it could be the easiest way to put a matrix together. He stated that it is important to keep in mind the number of vehicles generated.

Ms. Sulouff stated that staff can do some research into other localities and how they handle parking. She stated that some conditions on previous SUPs were limiting the types of vehicles such as campers and RVs.

Ms. Rosario stated that the number of vehicles may correlate with the number of bedrooms available.

Ms. Sulouff stated that previous cases limited the number of cars per rented bedroom.

Ms. Rosario stated that based upon the conversation, the most relevant characteristics to put into the matrix are ownership, number of rooms, parking and the consideration by Zoning District and if there would be an administrative process.

Mr. Holt asked if by ownership she meant whether the owner did or did not live on the

property.

Ms. Rosario confirmed and asked if there were any other items.

Mr. Haldeman asked if guest rooms were secondary to single-family use.

Ms. Sulouff confirmed. She stated that the definition for homestay being proposed would be secondary to the single-family residence, which is the same requirement as the current home occupation application.

Mr. Haldeman asked if the owner had to reside at the time of rental.

Ms. Sulouff stated that it is not necessary for the owner to reside at the time of rental. Ms. Sulouff stated that whether or not the owner is present at the time of the rental could fall in the matrix. She stated that it would be someone's home that they reside in.

Mr. Schmidt stated that owners could rent out their home while they are gone for the weekend.

Mr. Krapf stated that if it were a VRBO, the owner could rent the home during the peak tourist season such as May through October and the owner would not have to live there.

Mr. Haldeman asked if that would be considered a tourist home.

Ms. Sulouff stated that currently that would fall under a tourist home.

Ms. Rosario stated that as the definition becomes finalized, there could be some overlap between the other definitions, necessitating additional definition amendments.

Mr. Krapf asked if there should be a requirement on residency.

Mr. Richardson stated that he would prefer that the definition stay flexible for now. He stated that a couple could rent out their rooms while they were away and it gives the homeowners some flexibility to not be present.

Mr. Krapf stated that there are some general provisions outside of the matrix that would be incorporated. He stated that the registry is an example.

Mr. Schmidt stated that one of the concerns from the previous SUP was that people wanted to know who their neighbors are. He stated that he preferred having the homeowner present during the time of the rental.

Mr. Holt stated if someone wanted to operate a tourist home they still could, but for the Airbnb example, there should be someone living there.

Mr. Schmidt agreed and stated that he felt there would be more changeover from tenant to tenant.

Ms. Sulouff stated that the definitions may overlap with each other and that the tourist home and rental of rooms' uses need not go away. She stated that requiring the homeowner to be present does not take away from the ability to rent out their home



under another definition.

Mr. Schmidt stated that there will be times where we have VRBO and Airbnb cases.

Ms. Rosario stated that Airbnb rents by room and whole houses as well.

Mr. Holt asked if there was a consensus from the Committee that when staff puts the matrix together, the homeowner needs to be living there.

Mr. Schmidt confirmed.

Mr. Richardson stated that if the homeowner rents out their whole home, they would fall under the tourist home definition.

Mr. Krapf stated that looking under the definition of home-share, the owner is there sharing the home along with the tenants.

Ms. Sulouff stated that the home would be the primary residence and the homeowner would occupy the home at the time of the rental.

Mr. Krapf asked if there were any questions from anyone.

Mr. Hlavin stated that, from a legal standpoint, enforceability is tough because there would need to be proof that the homeowner is there during the time of the rental. He stated that it is a good start to the discussion.

Mr. Holt stated that the homeowner doesn't have to be present at all times, just that the home must be their primary residence.

Ms. Sulouff stated that the homeowner being present is not confirmed.

Mr. Krapf asked what it would be considered if he had a secondary residence to rent out.

Ms. Rosario stated that it would fall under the tourist home definition. She stated that there could be separate processes for homestay and for tourist home.

Ms. Sulouff stated that across the country, localities are dealing with the same conflicts. She stated that people want to know who their neighbors are.

Ms. Parrish stated that it is important to define a primary residence to avoid a home being used for a transient use.

Ms. Sulouff stated that staff is hoping to use the regulations under home occupation to follow for homestay.

Mr. Krapf asked if there were any other topics needed for staff to discuss.

Ms. Sulouff stated that she felt there is enough information for staff to begin.

Ms. Rosario stated that this is the beginning stage where staff can come back to get more clarification and then begin drafting an Ordinance.

Mr. Holt stated that it is important to keep it simple, protecting the neighborhood and to begin small by making sure someone lives there. He additionally stated that parking and the Zoning District can be factored in as well.

Ms. Rosario asked if some applications can be handled administratively and some by SUP.

Mr. Krapf confirmed. He also stated that it can be based on the number of rooms.

Mr. Holt stated that the Zoning District will factor in as well.

Mr. Richardson stated that homestays can be considered by-right in certain Zoning Districts.

Mr. Krapf asked if by-right requires administrative approval.

Ms. Sulouff confirmed. She stated that the by-right can have an administrative process attached to the definition similar to chicken keeping.

Mr. Krapf stated that it is important to keep the process simple. He stated that the next step would be to get something back, such as a matrix, from staff to help move the Policy Committee forward.

2. Review and Discussion of the Planning Commission Bylaws as it pertains to Article IV. Outside Meetings with Applicants

Mr. Holt stated to the Policy Committee that staff wanted to explore any concerns and possibly change anything with respect to the current bylaw.

Mr. Richardson stated that the PC members do a good job of acknowledging when they have conversations with developers. He stated that it is best to avoid times when multiple members meet with a single applicant where minutes are required from the meeting.

Mr. Haldeman stated that he attended a seminar regarding high growth communities where this topic arose.

Mr. Hlavin asked if the seminar was regarding the new proffer legislation.

Mr. Haldeman confirmed.

Mr. Hlavin stated that the Planning Commission and Board is saved from the proffer legislation because BOS members are not taking proffers for residential applications. He stated that proffers are still accepted for commercial applications. He stated that members do not have to worry about having conversations regarding proffers from residential development because the County is not taking them.

Mr. Richardson asked if a developer could offer another benefit for the County.

Mr. Hlavin stated that they could; however, there would be no binding effect with regard

to the rezoning. He stated that a developer could improve a road and then want an area rezoned and the BOS could take that into consideration.

Mr. Krapf stated that two years ago the Outside Meeting with Applicant item was added to the bylaws. He explained that the bylaw stated the purpose of meetings is limited to fact finding and clarifications for all parties. He stated that PC members are encouraged to go with a colleague. He stated that it is also encouraged to include a staff member and possibly have the meeting in Building A. He stated that it is helpful to meet with an applicant and get a better understanding before the public hearing. He stated that the General Assembly legislation only pertains to residential rezoning. He asked what happens if it is a mixed-use rezoning.

Mr. Hlavin stated that he is not worried about members meeting with applicants because proffers are not accepted. He stated that proffers could be accepted on the commercial component of a mixed use rezoning so legal staff would treat any such application with heightened caution.

Mr. Holt stated that if proffers were accepted for residential rezoning, he would advise PC members not to meet with applicants. He stated that there is not a lot of concern right now.

Mr. Hlavin agreed.

Mr. Richardson stated that there are times that applicants will contact him before a public hearing. He stated that the bylaw requires a summary to be provided to all members. He stated that he interpreted the bylaw as requiring him to state during the public meeting that he has met with an applicant.

Mr. Krapf stated that he will always ask for disclosures from members before getting into a public hearing. He stated that guidelines in Article IV are helpful. He stated that it is good to rely on the integrity of individuals and knowing what is appropriate. He stated that if he felt it was helpful to meet with an applicant, he would ask other members to join him.

Mr. Schmidt stated that it has been helpful to him when members send an email out to other members after going on a site visit.

Mr. Krapf stated that he does not see a need to revise the bylaws regarding meeting with applicants.

Mr. Richardson agreed and stated that they were revised in March.

Mr. Hlavin stated that there are also other issues such as conflict of interest issues. He stated that members can't have an interest in a transaction. He stated that members can't receive money for voting a certain way. He stated that there are exceptions. He stated that, in certain circumstances, if there is a personal interest in a transaction, the members can disclose it as long as their impartiality remains.

Mr. Krapf stated that there wasn't any other new business.

## **F. ADJOURNMENT**

Mr. Schmidt made a motion to Adjourn. By verbal vote, the motion passed.

Mr. Krapf adjourned the meeting at approximately 5:15 p.m.

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Mr. Rich Krapf, Acting Chair

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Mr. Paul Holt, Secretary

**ITEM SUMMARY**

DATE: 1/9/2018

TO: The Board of Supervisors

FROM: Roberta Sulouff, Senior Planner

SUBJECT: SUP-0011-2017, 3001 Ironbound Road Tourist Home

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**ATTACHMENTS:**

	Description	Type
☐	Staff Report	Staff Report
☐	Resolution	Resolution
☐	Master Plan	Exhibit
☐	Location Map	Backup Material
☐	Unapproved Minutes from the December 6, 2017, Planning Commission Meeting	Minutes
☐	Approved Minutes of the November 1, 2017, Planning Commission meeting	Backup Material
☐	Site Photos	Backup Material

**REVIEWERS:**

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	12/20/2017 - 2:24 PM
Development Management	Holt, Paul	Approved	12/20/2017 - 2:24 PM
Publication Management	Burcham, Nan	Approved	12/20/2017 - 2:43 PM
Legal Review	Kinsman, Adam	Approved	12/20/2017 - 4:12 PM
Board Secretary	Fellows, Teresa	Approved	12/28/2017 - 11:25 AM
Board Secretary	Purse, Jason	Approved	1/2/2018 - 1:52 PM
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 1:54 PM

**SPECIAL USE PERMIT-0011-2017. 3001 Ironbound Road Tourist Home**  
**Staff Report for the January 9, 2018, Board of Supervisors Public Hearing**

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**SUMMARY FACTS**

Applicant: Telmo Armando Contreras  
Land Owner: Armando Holdings, LLC  
Proposal: To allow for the short-term rental of an entire three-bedroom residential home (Tourist Home)  
Location: 3001 Ironbound Road  
Tax Map/Parcel No.: 4710100068  
Project Acreage: +/-0.5 acres  
Zoning: R-8, Rural Residential  
Comprehensive Plan: Low-Density Residential  
Primary Service Area: Inside

**PUBLIC HEARING DATES**

Planning Commission: November 1, 2017, 7:00 p.m. (deferred by the Planning Commission)  
Planning Commission: December 6, 2017, 7:00 p.m.  
Board of Supervisors: January 9, 2018, 5:00 p.m.  
Staff Contact: Roberta Sulouff, Senior Planner

**FACTORS FAVORABLE**

1. With the proposed conditions, staff finds the proposal compatible with surrounding development and consistent with the Comprehensive Plan adopted in 2035.
2. The subject property is located on a major right-of-way and no traffic impacts are expected.
3. The existing mature vegetation and fencing provide adequate screening of the use from adjacent properties.
4. The existing driveway is of sufficient length to provide adequate parking capacity. The minimum required parking for this use is three spaces (one space per rental unit). The existing driveway and gravel parking area provide eight parking spaces.
5. The applicant has acknowledged that, should this application be granted, they will obtain the proper licensing and inspections through the County and will be subject to the appropriate use-based taxes.

**FACTORS UNFAVORABLE**

With the proposed conditions, staff finds no unfavorable factors.

**SUMMARY STAFF RECOMMENDATION**

Approval subject to the proposed conditions.

**PLANNING COMMISSION RECOMMENDATION**

The Planning Commission voted 6-0 to recommend approval of this application to the Board of Supervisors

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*This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.*

**SPECIAL USE PERMIT-0011-2017. 3001 Ironbound Road Tourist Home**  
**Staff Report for the January 9, 2018, Board of Supervisors Public Hearing**

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**CHANGES SINCE THE PLANNING COMMISSION**

None.

**CHANGES BETWEEN THE NOVEMBER 1, 2017 AND THE DECEMBER 6, 2017 PLANNING COMMISSION MEETINGS**

A proposed condition was added which stipulates that the applicant may only rent the property to one rental party per rental period. The condition is intended to limit the intensity of the use at the property, as the tourist home use might otherwise permit such operations as traditional bed and breakfasts or boarding homes.

**PROJECT DESCRIPTION**

- The proposal is to allow for the short-term rental of the entirety of an existing three-bedroom house as a Tourist Home. The owner will not be present during the time of rentals and the property is not the owner's primary residence. The proposal includes no changes to the size or footprint of the house.
- The Zoning Ordinance defines a Tourist Home as "a dwelling where lodging or lodging and meals are provided for compensation for up to five rooms which are open to transients." While the Zoning Ordinance allows for the rental of up to five rooms in a Tourist Home, the proposed conditions limit the number of bedrooms available for rental to three in order prevent future expansion of the use.

**PLANNING AND ZONING HISTORY**

- Through an anonymous complaint to the County's Zoning Division, the house was found to be listed illegally on a popular

home-sharing site. The applicant subsequently submitted a Conceptual Plan and later this Special Use Permit (SUP) application.

- This application is consistent with the proposed draft ordinance language under consideration as James City County Case No. ZO-0002-2017, Zoning Ordinance Revisions to Permit Short-Term Residential Rentals. Should that language be adopted, tourist homes would still require SUPs in the R-8, Rural Residential District.

**SURROUNDING ZONING AND DEVELOPMENT**

- The surrounding zoning of all properties is R-8, Rural Residential. The property is located directly across the street from Coleman Nursery and Farmer's Market (3000 Ironbound Road) and less than a quarter of a mile south of the Williamsburg Unitarian Universalist Church (3051 Ironbound Road).
- The property is not within a subdivision, but shares a side and rear property line with two properties in the Chanco's Grant subdivision.

**COMPREHENSIVE PLAN**

The property is designated Low-Density Residential on the 2035 Comprehensive Plan Land Use Map, as are all of the surrounding parcels. Appropriate primary uses recommended by the Comprehensive Plan include single-family homes, duplexes and cluster housing. Limited commercial uses may also be considered appropriate, should the proposal meet the following standards:

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*This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.*

**SPECIAL USE PERMIT-0011-2017. 3001 Ironbound Road Tourist Home**

**Staff Report for the January 9, 2018, Board of Supervisors Public Hearing**

- **Complements the residential character of the area:** Staff finds that this proposed use would remain consistent with the residential character of the area, as this use does not propose any exterior changes.
- **Have traffic, noise, lighting and other impacts similar to surrounding residential uses:** Given the length of the existing driveway and in conjunction with the attached conditions, staff finds the proposal meets this criterion.
- **Generally be located on collector or arterial roads at intersections.** This property is located on, and takes access from, Ironbound Road, which is classified by the Virginia Department of Transportation as a major collector road.
- **Provide adequate screening and buffering to protect the character of nearby residential areas.** Staff finds that existing mature vegetation and fencing provide adequate screening from adjacent properties. Additionally, staff notes that this use inherently retains the same visual character as nearby residences.

**PUBLIC IMPACTS**

Anticipated impact on public facilities and services: None.

Nearby and surrounding properties: No impacts anticipated.

**PROPOSED SUP CONDITIONS**

- Proposed conditions are included in the attached resolution (See Attachment No. 1).

**STAFF RECOMMENDATION**

Staff finds the proposal to be compatible with surrounding development and consistent with the adopted Comprehensive Plan and Zoning Ordinance. Staff recommends the James City County Board of Supervisors approve this application, subject to the attached conditions.

RS/nb  
SUP11-17-3001IrnbnrdRd

Attachments:

1. Resolution
2. Master Plan
3. Location Map
4. Unadopted Minutes from the December 6, 2017, Planning Commission Meeting
5. Minutes from the November 1, 2017, Planning Commission Meeting
6. Site Photos

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## RESOLUTION

### CASE NO. SUP-0011-2017. 3001 IRONBOUND ROAD TOURIST HOME

WHEREAS, the Board of Supervisors of James City County, Virginia, has adopted by Ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Mr. Telmo Armando Contreras, of Armando Holdings, LLC has applied for an SUP to allow for the operation of a tourist home located on property consisting of approximately 0.5 acres zoned R-8, Rural Residential, located at 3001 Ironbound Road and further identified as James City County Real Estate Tax Map Parcel No. 4710100068 (the "Property"); and

WHEREAS, a public hearing was advertised, adjoining property owners notified and a hearing conducted on Case No. SUP-0011-2017; and

WHEREAS, the Planning Commission, following its public hearing on December 6, 2017, voted 6-0 to recommend approval of this application; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2035 Comprehensive Plan Land Use Map designation for the Property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after consideration of the factors in Section 24-9 of the County Code, hereby approves the issuance of SUP-0011-2017 as described herein with the following conditions:

1. Master Plan: This SUP shall permit a tourist home on property located at 3001 Ironbound Road and further identified as James City County Real Estate Tax Map Parcel No. 4710100068 (the "Property"). The use and layout of the Property shall be generally as shown on the document entitled "JCC SUP-0011-2017: 3001 Ironbound Road Tourist Home" and date-stamped October 15, 2017 (the "Master Plan"), with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance as amended. This condition does not restrict improvements typical of a residential property as determined by the Director of Planning.
2. Commencement: Prior to operating the Property as a tourist home, the owner shall obtain a business license, a Virginia Department of Transportation (VDOT) Land Use Permit and an approved building permit license. If the owner has not provided evidence of compliance with this condition to the Director of Planning within 12 months from the issuance of the SUP, the SUP shall become void.
3. Number of Rental Rooms Occupants: There shall be no more than three bedrooms available for rent to visitors and no more than six rental occupants total at any one time.
4. Signage: No signage related to the use of tourist home shall be permitted on the Property.

- 5. Parking: Parking shall be limited to areas shown on the Master Plan. No oversized commercial vehicles, such as but not limited to buses, commercial trucks and trailers, associated with rental occupants of the tourist home shall be allowed to park on the Property.
- 6. Contracts per Rental Period: The owner shall not conduct simultaneous rentals of the Property under separate contracts.
- 7. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

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Ruth M. Larson  
 Chairman, Board of Supervisors

ATTEST:

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Teresa J. Fellows  
 Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January, 2017.

SUP11-17-3001IrbndRd-res

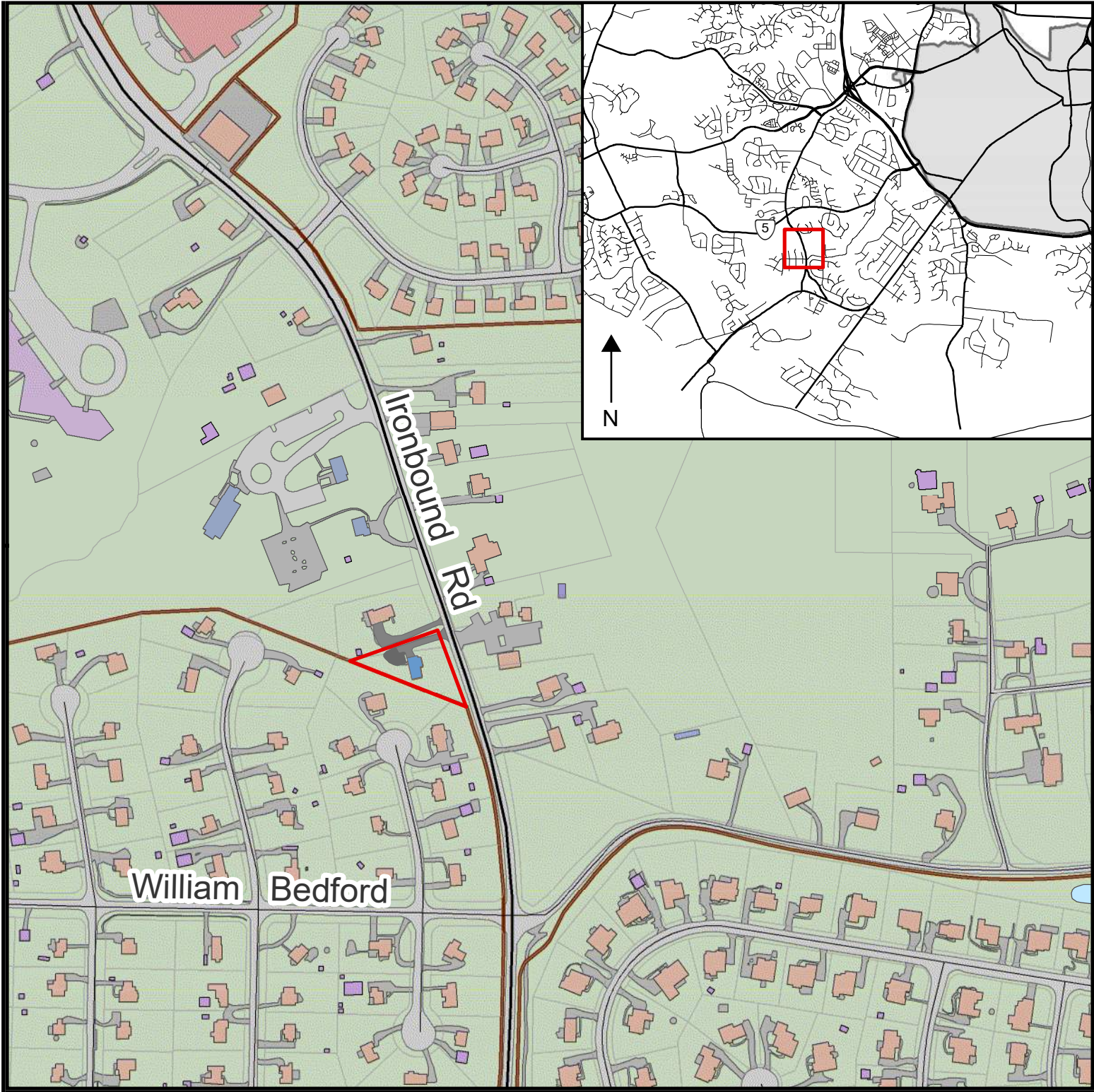
# SUP-0011-2017, 3001 Ironbound Tourist Home Master Plan

**Property Information**

4710100068  
 Armando Holdings LLC  
 3001 Ironbound Road  
 Williamsburg, VA 23185  
 R8, Rural Residential  
 Comp Plan: Low Density Residential  
 Acres: 0.5

**General Notes**

1. Site is served by public water and sewer.
2. Property is not located in a FEMA Floodplain zone.
3. Property does not contain Resource Protection Area.
4. Property has an existing paved driveway.
5. A minimum of three parking spots shall be provided (one parking spot per bedroom).



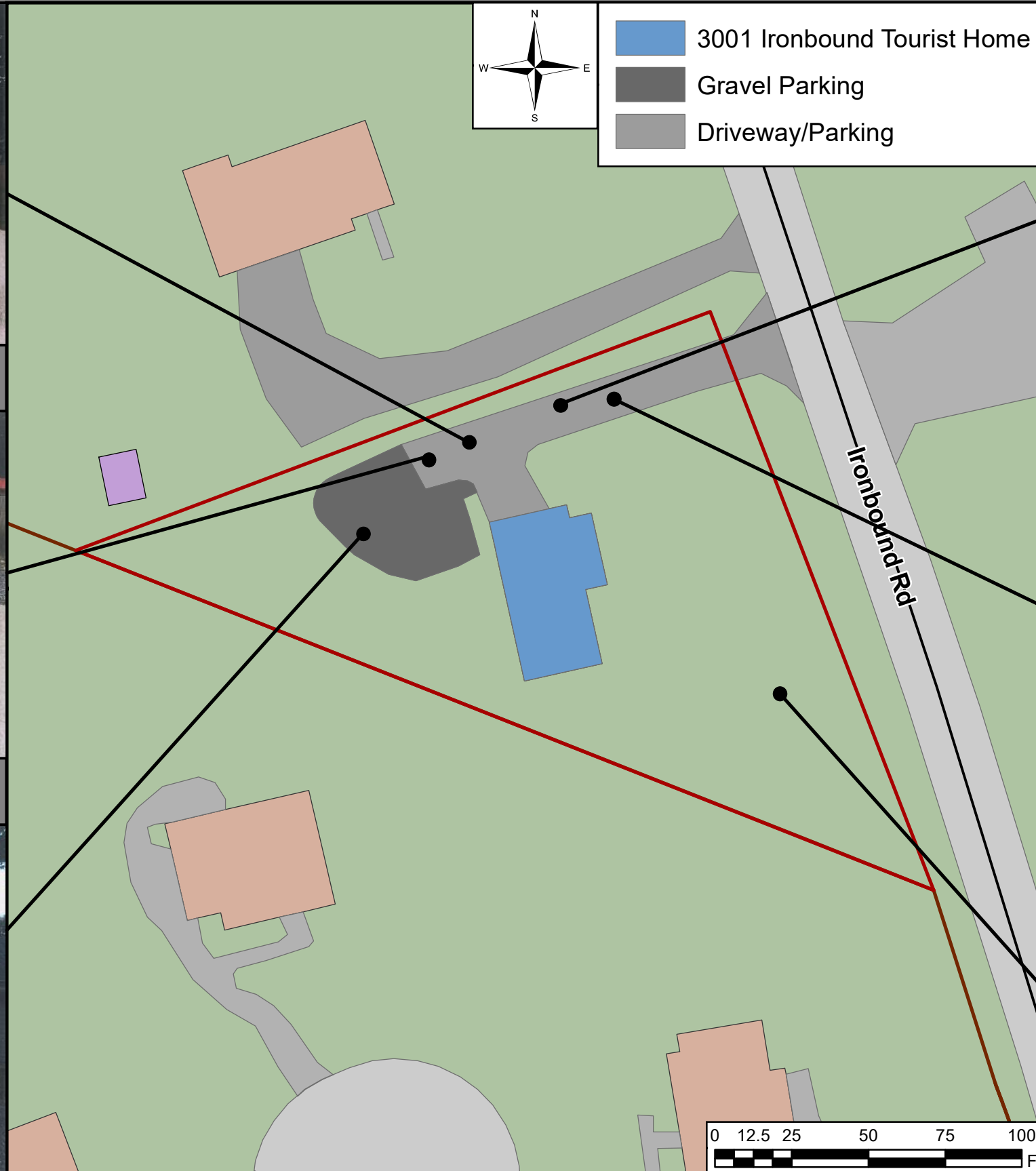
**Adjacent Properties**

4710100067 Mark Collins 3021 Ironbound Road Williamsburg, VA 23185 R8, Rural Residential	4710400036 Phana Tung 2908 Robert Hunt North Williamsburg, VA 23185 R8, Rural Residential
4710400037 Maurice Thomas 2906 Robert Hunt North Williamsburg, VA 23185 R8, Rural Residential	4710100075E Kevin Carver 2986 Ironbound Road Williamsburg, VA 23185 R8, Rural Residential
4710100075C David Bauernschmidt 2990 Ironbound Road Williamsburg, VA 23185 R8, Rural Residential	4710100075 Clockwork Angels LLC 3000 Ironbound Road Williamsburg, VA 23185 R8, Rural Residential

**Sheet Index**

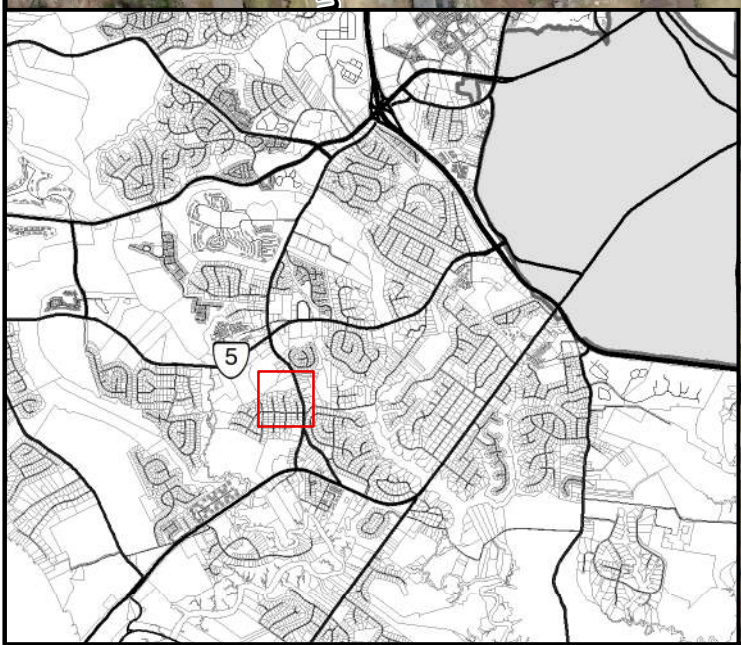
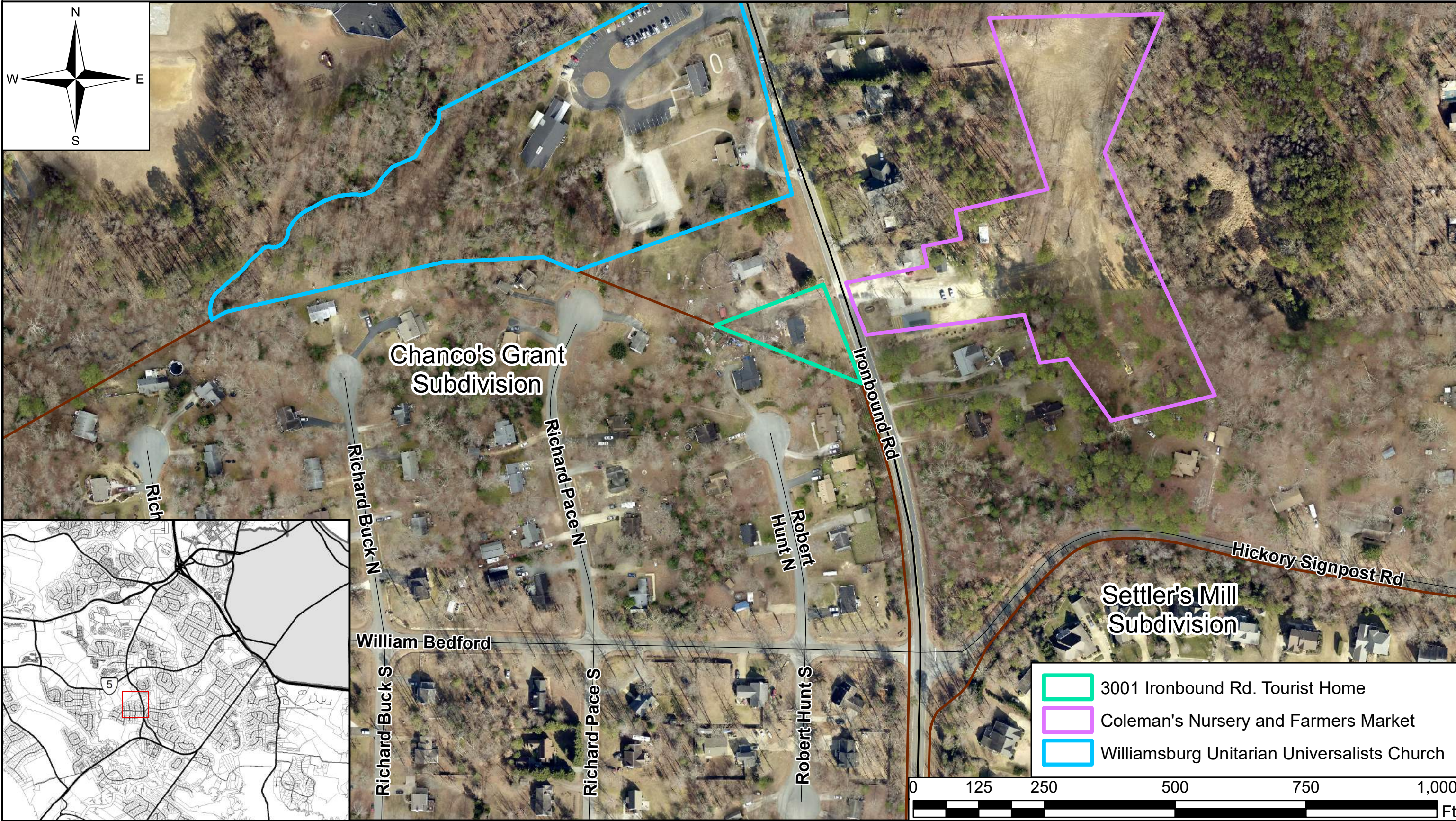
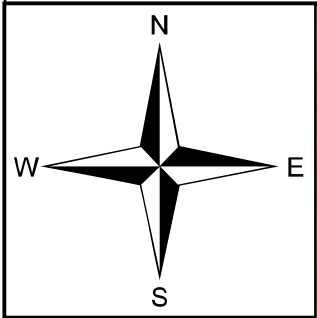
1. Cover Page
2. Master Plan
3. Location Map

# SUP-0011-2017, 3001 Ironbound Tourist Home Master Plan

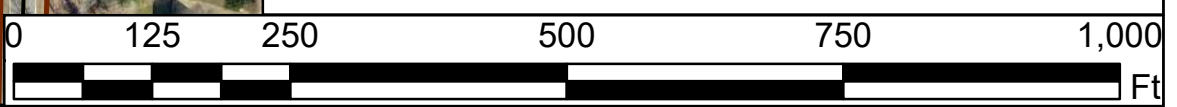




# SUP-0011-2017, 3001 Ironbound Tourist Home



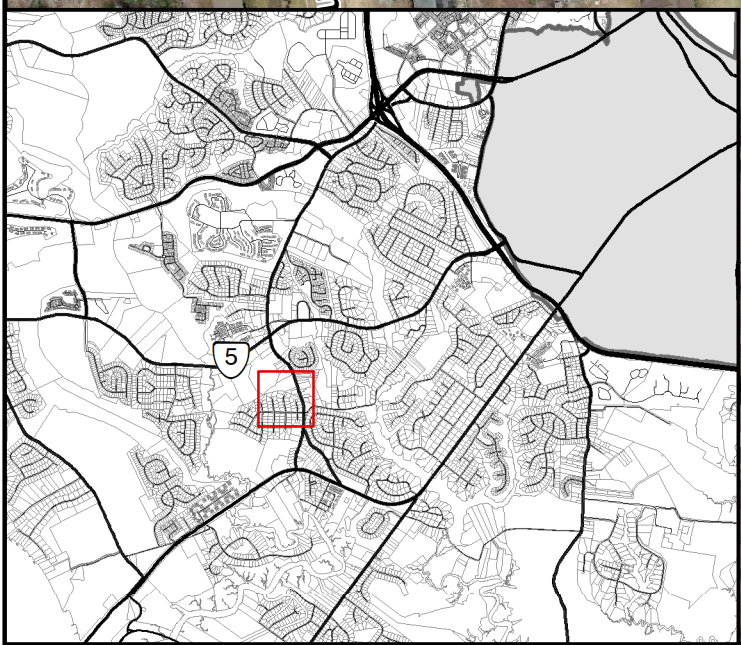
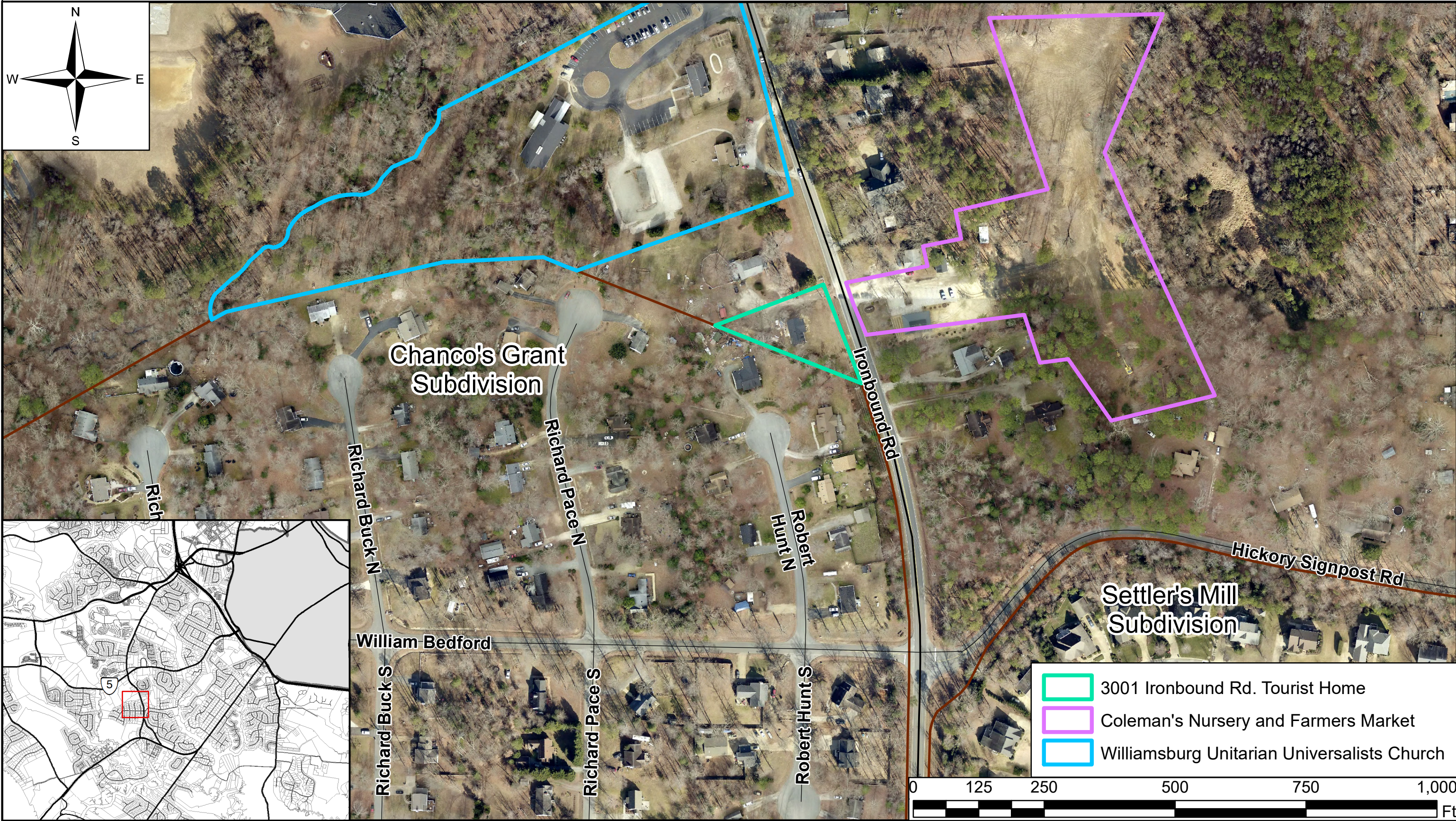
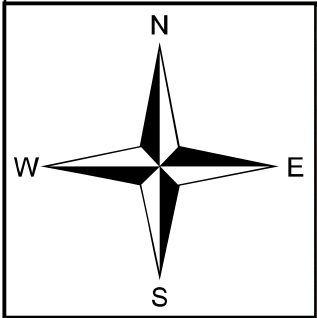
- 3001 Ironbound Rd. Tourist Home
- Coleman's Nursery and Farmers Market
- Williamsburg Unitarian Universalists Church



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# SUP-0011-2017, 3001 Ironbound Tourist Home



- 3001 Ironbound Rd. Tourist Home
- Coleman's Nursery and Farmers Market
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**Unapproved Minutes of the December 6, 2017  
Planning Commission Meeting**

**SUP-0011-2017, 3001 Ironbound Road Tourist Home**

Ms. Roberta Sulouff, Senior Planner, stated that this case was postponed from the November 1, 2017 Planning Commission meeting. Ms. Sulouff stated that since that meeting a proposed condition has been added which stipulates that the applicant may only rent the property to one rental party per rental period. The condition is intended to limit the intensity of the use at the property, as the tourist home use might otherwise permit such operations as traditional bed and breakfasts or boarding homes. Ms. Sulouff stated that the applicant supports this condition and that it is consistent with his intent for the rental of the property.

Ms. Sulouff stated that the proposal is consistent with the language included in the proposed ordinance amendments.

Ms. Sulouff stated that staff finds the proposal to be compatible with surrounding development and consistent with the adopted Comprehensive Plan and Zoning Ordinance. Ms. Sulouff stated that staff recommends that the Commission recommend approval of this application to the Board of Supervisors, subject to the attached conditions.

Mr. Krapf reopened the Public Hearing.

Ms. Phana Tung, 2908 Robert Hunt North, addressed the Commission in opposition of the application. Ms. Tung stated that the main concerns are related to excessive noise from outdoor speakers.

Mr. Telmo Contreras, applicant, stated that he had not been notified of the noise concerns. Mr. Contreras stated that he would have addressed the problem if he had been notified.

As no one else wished to speak Mr. Krapf closed the Public Hearing.

Mr. Krapf noted that the purpose of this case coming before the Commission is to determine if this is an appropriate land use. Mr. Krapf further noted that noise issues would be remedied through channels such as enforcement of the Noise Ordinance.

Mr. Krapf opened the floor for discussion by the Commission.

Mr. Haldeman inquired if the Commission could propose a condition that would eliminate the outside speakers.

Mr. Krapf questioned whether this was something that should be regulated through an SUP condition or fall to other avenues for regulation.

Mr. Haldeman stated that there is a greater risk that transient renters would not be respectful of the neighbors.

Mr. John Wright inquired whether an SUP could be revoked if the applicant did not ensure adherence to the conditions.

Mr. Holt stated that revoking the SUP would be initiated by the Board of Supervisors and referred back to the Planning Commission for a recommendation. Mr. Holt stated that the final determination would be made by the Board.

Mr. Schmidt stated that he would like SUP conditions to be consistent for all properties. Mr. Schmidt further stated that such a condition might be getting too detailed and restrictive.

Mr. Richardson stated that he believes that the conditions as they currently stand are sufficient to guide this SUP. Mr. Richardson stated that considering additional restrictive conditions may be going outside of the Commission's scope of making a land use recommendation.

Mr. Schmidt noted that he appreciated the improvements the applicant made to the property. Mr. Schmidt stated that those improvements should benefit the adjacent properties by improving land value and appearance of the community.

Ms. Felice Pete stated that she believes adding a condition regarding outdoor speakers is not within the Commission's purview. Ms. Pete stated that she believes the use is appropriate for the property and that the applicant has done everything necessary. Ms. Pete stated that she sympathizes with neighbors; however, noise issues would be more properly addressed through the Noise Ordinance.

Mr. Krapf asked that the applicant be sensitive to the noise issues that have been brought forward and work with the adjacent property owners to address those issues.

Mr. Haldeman made a motion to recommend approval of SUP-0011-2017.

On a roll call vote the Commission voted to recommend approval of SUP-0011-2017, 3001 Ironbound Road Tourist Home (6-0).



**Approved Minutes of the November 1, 2017  
Planning Commission Meeting**

**SUP-0011-2017. 3001 Ironbound Road Tourist Home**

A motion to Defer was made by Heath Richardson, the motion result was Passed. AYES: 6  
NAYS: 1 ABSTAIN: 0 ABSENT: 0

Ayes: Haldeman, Krapf, O'Connor, Pete, Richardson, Schmidt Nays:  
Wright III

Ms. Lauren White, Planner stated that Mr. Telmo Armando Contreras has applied for an SUP to allow the operation of a tourist home at 3001 Ironbound Road. Ms. White stated that the property is zoned R-8, Rural Residential and designated Low-Density Residential on the Comprehensive Plan Land Use Map.

Ms. White stated that the proposal will not involve any changes to the size or footprint of the structure.

Ms. White stated that the existing driveway is of sufficient length to provide adequate parking capacity. Ms. White further stated that the existing mature vegetation and fencing provide adequate screening of the use from adjacent properties. Ms. White stated that under the current ordinances and the draft ordinance amendments, the proposed operation would be classified as a Tourist Home and would require an SUP.

Ms. White stated that staff finds the proposal to be compatible with surrounding development. Ms. White further stated that staff finds the proposal to be consistent with the Comprehensive Plan and the Zoning Ordinance. Ms. White stated that staff recommends the Commission recommend approval of this application to the Board of Supervisors, subject to the attached conditions.

Mr. Krapf inquired if this case could be considered under the existing ordinance.

Ms. White stated that under both the existing ordinance and the ordinance amendments being considered by the Policy Committee, the application would be considered a Tourist Home and would require an SUP.

Mr. Krapf requested confirmation that the case before the Commission was to determine if an SUP should be granted for this property under the current regulations.

Ms. White confirmed. Mr. Krapf inquired if staff anticipated anything coming out of the ordinance amendments that would substantially impact this application. Ms. White stated that staff did not find anything in the proposed amendments that would impact the application.

Mr. Schmidt stated that, under the proposed amendments, Homestays in R-8 would be by-right.

Ms. White stated that this application falls under the category of Tourist Home which is distinctly different from a Homestay. Ms. White noted that Homestays are considered to be more residential in nature, while a Tourist Home is more commercial.

Mr. O'Connor inquired if the Tourist Home was the rental of the entire home or if individual bedrooms could be rented to separate groups.

Ms. White stated that the entire home would be rented. Ms. White stated that limiting the number of rental contracts per night was not included as an SUP condition for this application.

Mr. Holt clarified that there would be no limitation on renting the rooms individually, depending on how the applicant is marketing the property.

Mr. O'Connor if there was a requirement for the property to be owner occupied.

Ms. White stated that as a Tourist Home, there was no requirement for the property to be occupied by the owner.

Mr. Krapf called for disclosures from the Commission. There were no disclosures.

Mr. Krapf opened the Public Hearing.

Mr. Armando Contreras, 116 Holly Hills Drive, representing Armando Holdings, LLC, made a presentation to the Commission in support of the application. Mr. Contreras stated that his intention is to rent the entire house, not individual rooms.

Mr. Krapf inquired if two separate groups would be allowed to occupy the property at the same time.

Mr. Contreras stated that he did not intend to rent to separate groups.

Mr. Krapf inquired if there had been complaints regarding parties or noise. Mr.

Contreras stated that there had not been any complaints.

Mr. Haldeman inquired if anyone checked on the property while it was being rented. Mr.

Contreras stated that he does not check regularly.

Mr. Maurice Thomas, 2906 Robert Hunt North, stated that there have been some issues with outdoor parties creating excessive noise.

Ms. Marion Lemire, friend of the applicant, stated that the applicant would be responsive to neighbors' concerns about noise and parties. Ms. Lemire stated that neighbors should communicate with the property owner if there is a concern.

As no one else wished to speak, Mr. Krapf closed the Public Hearing.

Mr. Krapf requested that Ms. White elaborate on the definition of Tourist Home.

Ms. White stated that Tourist Home as a dwelling where lodging or lodging and meals are provided for compensation for up to five rooms which are open to transients. Ms. White stated that there is also another category that short-term rentals can fall under which is Rental of Rooms. Ms. White stated that, while the Zoning Ordinance does not define Rental of Rooms, a previous Zoning Administrator clarified that it means that rooms only, and not the entire property, are rented with a caretaker living on the property. Ms. White further stated that the Tourist Home designation allows a little more flexibility.

Mr. Krapf inquired if the SUP conditions limited the number of rooms that could be rented. Ms.

White stated that the proposed conditions limited the number of rooms to three.

Mr. O'Connor stated that he has concerns about what could occur on the property with a future owner without a condition limiting the number of contracts. Mr. O'Connor stated that he is not in favor of the application as it stands at this time.

Mr. Krapf inquired it would be possible to defer the matter until the ordinance amendments are considered.

Mr. Holt stated that State Code requires that the Commission act on an application within 100 days. Mr. Holt stated that this could potentially give the Commission until its February 2018 meeting. Mr. Holt stated that, based on the results of the upcoming Policy Committee meeting, the ordinance amendments could be considered by the full Planning Commission in December.

Mr. Krapf inquired if there was a precedent for adding conditions limiting the number of separate groups renting the property and noise volume.

Mr. Holt stated that the County's noise ordinance is always in effect. Mr. Holt further stated that if a neighbor is unsuccessful in addressing noise complaints with the property owner, the Police Department does enforce the noise ordinance. Mr. Holt further stated that the Commission could send the application forward with a recommendation to add conditions regarding a limit on the number of contracts. Mr. Holt further stated that the Commission could defer the application to its December 6, 2017 meeting so that the Commission could review revised SUP conditions or the Commission could recommend approval and direct staff to provide the additional SUP conditions before the Board considers the application.

Mr. Richardson stated that he would not be comfortable with a deferral when potential new regulations could affect the application. Mr. Richardson stated that he would prefer to add a condition limiting the number of contracts. Mr. Richardson inquired if the applicant would be agreeable to that condition.

Mr. Holt stated that staff has not had an opportunity to share language for such condition with the applicant. Mr. Holt stated that a deferral would give staff and the applicant time to discuss the language.

Mr. Richardson stated that under those circumstances, he would not oppose a deferral but would want it to be heard at the next meeting.

Mr. Krapf stated that he would prefer to defer the application to the next meeting so that staff and the applicant can work out satisfactory language and so that the Policy Committee would have an additional meeting to consider if similar regulations should be considered for the

ordinance amendments.

Mr. Schmidt commended the applicant for complying with the County's requirements. Mr. Schmidt further stated that he would support a deferral.

Mr. Richardson made a motion to postpone the matter to the December 6, 2017 Planning Commission meeting.

On a roll call vote the Commission voted to postpone the matter to its December 6, 2017 regular meeting. (6-1)























**ITEM SUMMARY**

DATE: 1/9/2018

TO: The Board of Supervisors

FROM: Christy H. Parrish, Zoning Administrator

SUBJECT: ZO-0001-2017. Amendments to the Zoning Ordinance, Division 3, Floodplain Area Regulations

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**ATTACHMENTS:**

	Description	Type
☐	Memorandum	Staff Report
☐	Strikethrough Draft Ordinance	Ordinance
☐	Clean-Copy Draft Ordinance	Ordinance
☐	Unapproved Minutes of the December 6 Planning Commission - Floodplain Ordinance Amendments	Minutes

**REVIEWERS:**

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	12/20/2017 - 5:07 PM
Development Management	Holt, Paul	Approved	12/20/2017 - 5:08 PM
Publication Management	Burcham, Nan	Approved	12/21/2017 - 7:42 AM
Legal Review	Kinsman, Adam	Approved	12/21/2017 - 9:34 AM
Board Secretary	Fellows, Teresa	Approved	12/28/2017 - 11:22 AM
Board Secretary	Purse, Jason	Approved	1/2/2018 - 1:52 PM
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 1:55 PM



## MEMORANDUM

DATE: January 9, 2018

TO: The Board of Supervisors

FROM: Christy H. Parrish, Zoning Administrator

SUBJECT: Case No. ZO-0001-2017. Amendments to the Zoning Ordinance, Division 3, Floodplain Area Regulations

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In response to recent guidance from the Federal Emergency Management Agency (“FEMA”) Region III and the Department of Conservation and Recreation (“DCR”), staff has identified the need to update the Floodplain Ordinance to address the construction regulations of small accessory structures in the special flood hazard area.

The current regulations only permit the construction of nonresidential structures in the floodplain when the lowest floor of that structure is either elevated or watertight flood-proofed up to the level of two feet above the base flood elevation. All structures that are not used for dwelling purposes are considered nonresidential, which include residential detached garages and sheds.

As a result of the recent FEMA determinations, DCR guidance and model regulations have been recently updated to address wet-proofing construction standards for small accessory structures in the floodplain. If adopted locally, it would provide a lower construction cost option for property owners.

In addition, staff has used this opportunity to consult with DCR to re-review all sections of the Floodplain Area Regulations to ensure compliance with the National Flood Insurance Program (“NFIP”). Staff received minor clarifying updates to various sections, but did not receive any large substantive changes.

### **Draft Ordinance**

Staff has drafted the attached ordinance language revision; however, below is a brief summary of those changes:

#### **Sec. 24-2. Definitions**

- Amended *accessory building or structure* definition to be consistent with NFIP regulations.
- Added *dry floodproofing* definition.
- Added *wet floodproofing* definition.

#### **Sec. 24-588. (c) Compliance, liability, abrogation and severability.**

- Amended section to ensure records and actions associated with the regulations are kept in perpetuity to ensure compliance with FEMA regulations.

#### **Sec. 24-590. (a) Designation of floodplain districts.**

- Amended section to update the naming of Flood Insurance Study (“FIS”) and Flood Insurance Rate Maps (“FIRMS”) to correct titles.
- Deleted unmapped flood-prone areas from this section since these areas cannot be referenced or identified. Application of these regulations to unknown areas may not be enforceable.
- Clarified that in areas where no base elevation data is provided, the best available data for the one percent annual chance flood elevation shall be used.

**Sec. 24-592. Permits.**

- Amended section to clarify that all proposed construction and development require a permit and that all applications will be reviewed to ensure the proposal is reasonably safe from flooding.

**Sec. 24-595. (2)(5)(7)(9)(10) Regulations for construction.**

- Amended section to include optional construction standards for small accessory structures.
- Amended watertight floodproofing references to dry floodproofing.
- Added a clarifying sentence to ensure that regulations for all enclosed spaces below the lowest floor apply to all floodplain districts.
- Clarified that all federal and state permits shall be obtained prior to approval of any development in the special flood hazard area.

**Sec. 24-597. (a) Regulations for replacement manufactured homes.**

- Amended section to clarify that the replacement of manufactured homes shall be elevated in accordance with the construction standards in Sec. 24-595.

**Sec. 24-598. Recreational vehicles.**

- Amended section to clarify that, if applicable, recreational vehicles must meet the requirements for placement, elevation and anchoring for the floodplain district in which they are located.

**Sec. 24-603. (13) Variances; factors to be considered.**

- Amended section to exclude any accessory structure which exceeds 600 square feet from being granted a variance to be wet floodproofed.

**Recommendations**

On November 9, 2017, the Policy Committee voted 4-0 to recommend approval of all the proposed changes.

On December 6, 2017, the Planning Commission voted 6-0 to recommend approval of all the proposed changes. Staff recommends the Board of Supervisors approval of the attached draft ordinance amendments.

CHP/nb  
ZO-01-17Div3Fldpln-mem

Attachments:

1. Strikethrough Draft Ordinance
2. Clean-Copy Draft Ordinance
3. Unapproved Minutes of the December 6, 2017 Planning Commission

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL; SECTION 24-2, DEFINITIONS AND BY AMENDING ARTICLE VI, OVERLAY DISTRICTS; DIVISION 3, FLOODPLAIN AREA REGULATIONS SECTION 24-588, COMPLIANCE, LIABILITY, ABROGATION AND SEVERABILITY; SECTION 24-590, DESIGNATION OF FLOODPLAIN DISTRICTS; SECTION 24-592, PERMITS; SECTION 24-595, REGULATIONS FOR CONSTRUCTION; SECTION 24-597, REGULATIONS FOR REPLACEMENT MANUFACTURED HOMES; SECTION 24-598, RECREATIONAL VEHICLES; AND SECTION 24-603, VARIANCES; FACTORS TO BE CONSIDERED.

BE IT ORDAINED by the Board of Supervisors of the County of James City County, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General; Section 24-2, Definitions and by amending Article VI, Overlay Districts; Division 3, Floodplain Area Regulations Section 24-588, Compliance, liability, abrogation and severability; Section 24-590, Designation of floodplain districts; Section 24-592, Permits; Section 24-595, Regulations for construction; Section 24-597, Regulations For replacement manufactured homes; Section 24-598, Recreational vehicles; and Section 24-603, Variances; factors to be considered.

This ordinance shall be effective on January 9, 2018.

**Chapter 24. Zoning**

**Article I. In General**

**Sec. 24-2. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Accessory building or structure. A subordinate building or structure customarily incidental to and located upon the same lot occupied by the main use or building. With the exception of detached accessory apartments, as may be approved by a special use permit, no such accessory building or structure shall be used for housekeeping purposes. Garages or other accessory structures such as carports, porches, decks and stoops attached to the main building shall be considered part of the main building. Accessory buildings and structures located ten feet or less from a main structure shall be considered part of the main structure for the purpose of determining side and rear yards. (Refer to the definition of "structure.") *Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, an accessory building or structure shall be considered non-residential.*

*Dry floodproofing - Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, dry floodproofing is a combination of measures that results in a structure, including the attendant utilities and equipment, being watertight with all elements substantially impermeable and with structural components having the capacity to resist flood loads.*

*Wet floodproofing - Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, wet floodproofing is a floodproofing method that relies on the use of flood damage-*

*resistant materials and construction techniques in the areas of a structure that are below the elevation required by this standard by intentionally allowing those areas to flood.*

## **Article VI. Overlay Districts**

### **Division 3. Floodplain Area Regulations**

#### **Sec. 24-586. Statement of intent.**

- (a) This section is adopted pursuant to the authority granted to localities by Virginia Code § 15.2-2280. These regulations are intended to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:
  - (1) Regulating uses, activities and development which, alone or in combination with other existing or future uses, activities and development, may cause unacceptable increases in flood heights, velocities and frequencies;
  - (2) Restricting or prohibiting certain uses, activities and development within districts subject to flooding;
  - (3) Requiring uses, activities and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and
  - (4) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.
- (b) These regulations comply with the requirements of the National Flood Insurance Program (42 USC 4001-4128) of the Federal Insurance Administration. These regulations are necessary in order for all property owners within the county to be eligible for the National Flood Insurance Program and thereby purchase such insurance at nominal rates.

#### **Sec. 24-587. Applicability.**

These regulations shall apply to all property located within an area designated as a floodplain area, and as such shall supplement the regulations of the zoning district within which such property is located. Where these regulations are at variance with other provisions of this chapter, it is intended that these regulations shall apply. These regulations shall only apply to property which is designated as being within a floodplain area.

#### **Sec. 24-588. Compliance, liability, abrogation and severability.**

- (a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of these regulations and any other applicable ordinances and regulations; including, but not limited to: the Virginia Uniform Statewide Building Code (USBC), the Virginia Industrialized Building Safety Regulations (IBSR), and the Manufactured Home Safety Regulations (MHSR).
- (b) The degree of flood protection sought by the provisions of these regulations is for reasonable regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. These regulations do not imply that districts outside the

floodplain district or that land uses permitted within such district will be free from flooding or flood damage.

- (c) Records of actions associated with administering these regulations shall be kept on file and maintained by the director of community development or his designee *in perpetuity*.
- (d) These regulations shall not create liability on the part of the county or any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.
- (e) Any person who fails to comply with any requirement or provision of this article shall be guilty of the appropriate violation and subject to penalties set forth in section 24-22 of this chapter.
- (f) To the extent that the provisions are more restrictive than previous requirements, this ordinance supersedes any ordinance currently in effect in flood-prone districts. To the extent that any other existing law or regulation is more restrictive or does not conflict, it shall remain in full force and effect. These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances, or building codes. In the event of a conflict between these regulations and any other ordinances, the more restrictive shall govern.
- (g) If any section, subsection, paragraph, sentence, clause, or phrase of this division shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this division. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this division are hereby declared to be severable.

#### **Sec. 24-589. Definitions and administrator.**

The terms used in these regulations are defined in section 24-2 of this chapter except for the board of zoning appeals, which is defined in section 24-645. The administrator of these regulations is set forth in section 24-5 of this chapter.

#### **Sec. 24-590. Designation of floodplain districts.**

- (a) The various floodplain districts shall include areas subject to inundation by waters of the one percent annual chance (100-year) flood. The minimum basis for the delineation of these districts shall be, but not be limited to, the December 16, 2015 ~~flood insurance study and flood insurance rate maps~~ *Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs)* prepared by the Federal Emergency Management Agency (FEMA), ~~Federal Insurance Agency (FIA)~~ and subsequent revisions or amendments thereto, ~~since other flood-prone areas exist in James City County which are not shown on the floodplain maps. To determine these areas,~~ *In areas with no base flood elevation provided by the FIRM/FIS, the best available data* for the one percent annual chance (100-year) flood elevations and floodways from federal, state and local sources ~~may~~ *shall* be used when available. Where the specific one percent annual chance (100-year) flood elevation cannot be determined for an area by using available sources of data, then the applicant for the proposed use, development and/or activity shall determine this elevation to the satisfaction of the director of community development or his designee in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall consider full development of the watershed and shall be submitted in sufficient detail to allow a thorough review by the director of community development or his designee.

Where flood elevations are provided by the ~~FIA~~ *FEMA*, these elevations shall not be changed except with FEMA approval. Local sources of flood-prone area data include, but are not limited to, the Mill Creek-Lake Powell Watershed Study, GKY and Associates, 1988 report, locally approved watershed management plans and comprehensive drainage studies.

When base flood elevations have increased or decreased resulting from physical changes affecting flooding conditions, technical or scientific data shall be submitted to FEMA no later than six months after the date such information becomes available. Such submission is necessary so that, upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirement will be based upon current data.

- (b) The floodway district, minimally shown on the maps accompanying the flood insurance study, is established for purposes of these regulations using the criterion that certain areas within the floodplain must be kept free of encroachment in order that the one percent annual chance (100-year) flood be conveyed without increasing the water surface areas included in this district.
- (c) The flood-fringe district shall be that area of the one percent annual chance (100-year) flood not included in the floodway district. The basis for the outmost boundary of the district shall be the one percent annual chance (100-year) elevations minimally shown as Zones AE and AO on the maps accompanying the flood insurance study.
- (d) The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided but where a one percent annual chance (100-year) flood boundary has been approximated. Such areas are minimally shown as Zone A on the maps accompanying the flood insurance study. Consider other available data such as presented in subsection (a) of this section as the basis for elevating residential structures to or above base flood level, and for floodproofing or elevating nonresidential structures to or above base flood level.
- (e) Coastal A zones shall be those areas as defined by the Virginia Uniform Statewide Building Code that are subject to wave heights between 1.5 feet and 3 feet and identified on the FIRM as AE areas that are seaward of the Limit of Moderate Wave Action (LiMWA) line.
- (f) Coastal high-hazard area districts shall be those portions of land within the coastal floodplain subject to inundations by high velocity waters and wave action greater than three feet. Such areas are minimally shown as Zones V and VE.

#### **Sec. 24-591. Official map.**

The boundaries of floodway, flood-fringe and approximated floodplain districts in section 24-590(b), (c) and (d) above are established as minimum areas, as shown on the flood insurance rate map dated December 16, 2015, which is declared to be a part of these regulations and which shall be kept on file at the office of the director of community development.

#### **Sec. 24-592. Permits.**

*A permit is required for all proposed construction and other developments, including the placement of manufactured homes, within the floodway or any floodplain district.* An application for subdivision, site plan, rezoning, building permit, special use permit, Virginia Erosion and Sediment Control Program/Virginia Stormwater Management Program permit, wetlands permit or other local development permit shall be considered an application for development under these regulations. The applicant shall be informed of the provisions of this article as they may apply to the property and no permit shall be issued

until the applicant has complied with such provisions. *Applications will be reviewed to ensure the proposed construction or other developments will be reasonably safe from flooding.*

**Sec. 24-593. Permitted uses.**

Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district except as specifically modified herein.

**Sec. 24-594. Prohibited uses.**

(a) The following uses shall be specifically prohibited within all floodplain districts:

- (1) Sanitary landfills, junkyards, outdoor storage of inoperative vehicles.
- (2) Manufactured homes.
- (3) Surface mines and borrow pits.
- (4) Manufacture, bulk storage, transformation or distribution of petroleum, chemical or asphalt products or any hazardous materials as defined in either or both of the following:
  - a. Superfund Amendment and Reauthorization Act of 1986.
  - b. Identification and Listing of Hazardous Wastes, 40 CFR section 261 (1987).

The following products shall be specifically included:

- i. Oil and oil products including petrochemicals.
  - ii. Radioactive materials.
  - iii. Any material transported or stored in large commercial quantities (such as 55-gallon drums) which is a very soluble acid or base, causes abnormal growth of an organ or organism, or is highly biodegradable, exerting a strong oxygen demand.
  - iv. Biologically accumulative poisons.
  - v. Substances containing the active ingredients of poisons that are or were ever registered in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 USC 135 et seq.).
  - vi. Substances highly lethal to mammalian or aquatic life.
- (5) Storage or land application of industrial wastes.
  - (6) Outdoor storage of equipment, materials or supplies which are buoyant, flammable or explosive.
- (b) Nonconforming uses of this chapter notwithstanding, no expansion of any of the above uses located within the floodplain district shall be permitted.

**Sec. 24-595. Regulations for construction.**

- a) The construction or placement of any structure or obstruction, filling or changing the cross-section or flow characteristics within the one percent annual chance (100-year) flood shall not be permitted unless the project is in conformance with the following requirements:
- (1) All construction shall use methods that minimize flood damage and which are in accordance with the Virginia Uniform Statewide Building Code. Structures shall be constructed with materials

and equipment resistant to flood damage and shall be anchored to prevent floatation, collapse, or lateral movement.

- (2) The finished elevation of the lowest floor, including the basement or cellar of any building, shall have at least two feet freeboard above the one percent annual chance (100-year) flood elevation. For nonresidential structures, *excluding accessory structures which conform to 24-595(a)(9)*, ~~watertight~~ *dry* floodproofing up to the level of two feet freeboard in accordance with the Virginia Uniform Statewide Building Code may be provided in lieu of the finished grade requirement described herein.
- (3) Utility and sanitary facilities, including but not limited to mechanical, plumbing and electrical systems and gas lines, shall be floodproofed up to the level of two feet freeboard above the one percent annual chance (100-year) base flood elevation.
- (4) Encroachments, including fill, new construction, substantial improvements and other development are prohibited within the floodway or any floodplain district unless it has been demonstrated through hydrologic and hydraulic analyses that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken by a professional engineer and shall be submitted in sufficient detail to allow a thorough review by the director of community development or his designee. Hydrologic and hydraulic analyses shall not be required for properties affected only by coastal (tidal) flooding.
- (5) All new construction and substantial improved structures in Zone AO shall meet the following requirements:
  - a. The lowest floor, including basements, shall be at or above the highest adjacent grade and two feet above the FIRM's depth number.
  - b. Nonresidential structures may use ~~watertight~~ *dry* floodproofing in accordance with the Virginia Uniform Statewide Building Code in lieu of the finished grade requirement described herein.
  - c. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.
- (6) All new construction and substantial improvements in Zones V, VE, and Coastal A shall meet the following requirements:
  - a. The structure shall be elevated on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated at least two feet above the base flood level. The pile of column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to effects of wind and water loads acting simultaneously on all building components. A registered design professional engineer or architect shall develop and seal the structural design, specifications and plans for the construction, and shall certify the design and methods of construction.
  - b. The space below the lowest floor shall be either free of obstruction or constructed with nonsupporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall collapse from water loads that are less than that which would occur during the base flood.



- c. New construction shall be landward of reach of mean high tide.
- d. Fill for structural support and alterations of sand dunes are prohibited.
- (7) The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access or storage, have permanent openings designed to allow the exit of floodwaters in accordance with the Virginia Statewide Building Code and Federal Code 44CRF Section 60.3 approved by the director of building safety and permits. *This requirement applies to all floodplain districts, including Zones V, VE, and Coastal A.*
- (8) Prior to issuance of a certificate of occupancy, the owner of any structure located in a floodplain district shall submit a completed elevation certificate or floodproofing certificate from a registered professional engineer or architect, as appropriate, to the director of building safety and permits.
- (9) *Accessory structures shall comply with elevation or dry floodproofing requirements in section 24-595 (a)(2) or shall conform to the following standards:*
  - a) *Not located in a floodway;*
  - b) *Not be used for human habitation;*
  - c) *Be limited to no more than 600 square feet in total floor area;*
  - d) *Be usable only for parking of vehicles or limited storage;*
  - e) *Be constructed with flood damage-resistant material to the level of two feet freeboard above the one percent annual chance (100-year) base flood elevation;*
  - f) *Be constructed and placed to offer the minimum resistance to the flow of floodwaters;*
  - g) *Be anchored to prevent flotation;*
  - h) *All utilities, including but not limited to mechanical, plumbing and electrical systems and gas lines, shall be elevated or floodproofed up to the level of two feet freeboard above the one percent annual chance (100-year) base flood elevation;*
  - i) *Shall be provided with flood openings which shall meet the following criteria:*
    - 1. *There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls;*
    - 2. *The total net area of all flood openings shall be at least one square inch for each square foot of enclosed area (non-engineered flood opening), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by ICC Evaluation Service, Inc.;*
    - 3. *The bottom of each flood opening shall be one foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening;*
    - 4. *Any louvers, screens or other covers for the flood opening shall allow the automatic flow of floodwaters into and out of the enclosed area.*
  - j) *Such accessory structure shall not be used to store any hazardous material as listed in section 24-593 (a)(4).*

(910) All other federal and state permits shall be obtained by the applicant before ~~a building permit can be issued~~ *the development will be permitted under this Chapter.*

- (b) It shall be the responsibility of the applicant to provide this data, certified by a licensed surveyor or engineer or other source acceptable to the director of building safety and permits.

**Sec. 24-596. Regulations for subdivisions and site plans.**

The applicant of any subdivision of land or site plan within the county shall submit with his application a statement by a licensed surveyor or engineer as to whether or not any property shown on the plat or plan is at an elevation lower than the one percent annual chance (100-year) flood level. Where a one percent annual chance (100-year) flood level exists, the extent of this area shall be shown on the plat or plan. Further, the elevation of the finished surface of the ground at each building location shall be shown. Lots created after February 6, 1991, which are within a non-coastal (non-tidal) floodplain district, shall contain a natural, unfilled building site at least one foot above the one percent annual chance (100-year) flood elevation adequate to accommodate all proposed buildings. All buildings shall be constructed solely within such building site and outside of the one percent annual chance (100-year) flood plain. All proposals shall be consistent with the need to minimize flood damage.

**Sec. 24-597. Regulations for replacement manufactured homes.**

- (a) Replacement manufactured homes shall be elevated on a permanent foundation ~~so that the lowest floor has two feet freeboard above the level of the one percent annual chance (100-year) flood elevation~~ *in accordance with the construction standards identified in section 24-595.*
- (b) In floodplain areas, replacement manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors in either of the following arrangements:
- (1) Over-the-top ties at each corner plus one frame tie at the middle of each side; or
  - (2) Frame ties at each corner plus no less than five evenly spaced additional frame ties per side.
- (c) All ties to the ground shall be able to carry a force of 4,800 pounds.

**Sec. 24-598. Recreational vehicles.**

Recreational vehicles placed on sites must either be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use or meet requirements for placement, elevation and anchoring requirements for manufactured homes *for the floodplain district in which the recreational vehicle is located.*

**Sec. 24-599. Design criteria for utilities and facilities.**

- (a) *Sanitary sewer facilities.* All new or replacement sanitary sewer facilities shall be designed to eliminate infiltration of floodwaters into the systems up to the one percent annual chance (100-year) flood level and discharges from the systems into the floodwaters in accordance with the Commonwealth of Virginia, Department of Health, Sewage Collection and Treatment Regulations. In addition, they should be located and constructed to eliminate flood damage and impairment.

- (b) *Water facilities.* All new or replacement water facilities shall be designed to eliminate infiltration of floodwaters into the systems and shall be located and constructed to minimize or eliminate flood damages.
- (c) *Drainage facilities.* All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on site waste disposal sites.
- (d) *Septic tanks.* New or replacement septic tank drain fields shall be placed where they shall not be impaired or contaminated by a base flood. The Virginia Department of Health shall be consulted to verify compliance with this requirement.
- (e) *Utilities.* All utilities, such as gas lines, electrical and telephone systems, being placed in flood prone areas should be located and constructed to eliminate the chance of impairment during a 100-year flooding occurrence.
- (f) *Streets and sidewalks.* Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

**Sec. 24-600. Regulations for filling in flood fringe and approximated floodplain districts.**

No permit shall be issued or approved until the site development plan for such fill meets the following requirements:

- (1) The filling of land shall be designed and constructed to minimize obstruction to and effect upon the flow of water and more particularly that:
  - a. Such fill will not result in any increase in flood levels during the occurrence of a one percent annual chance (100-year) flood discharge.
  - b. The flood-carrying capacity of the watercourse shall be maintained.
- (2) Fill shall be effectively protected against erosion by vegetative cover, riprap, gabions, bulkhead or other acceptable method. Any structure, equipment or material permitted shall be firmly anchored to prevent dislocation due to flooding;
- (3) Fill shall be of a material that will not pollute surface water or groundwater;
- (4) Where, in the opinion of the director of community development or his designee additional topographic, engineering and other data or studies are necessary to determine the effects of flooding on a proposed structure or fill and/or the effect of such structure or fill on the flow of water in flood stage, the applicant shall submit such data or studies.

**Sec. 24-601. Watercourse modification.**

The Federal Insurance Administrator, adjacent jurisdictions and the Department of Conservation and Recreation, Division of Dam Safety and Floodplain Management shall be notified and all federal and state permits shall be obtained prior to the alteration or relocation of any watercourse. The flood-carrying capacity to such watercourse shall be maintained.

**Sec. 24-602. Existing structures in floodplain districts.**

A structure or use of a structure or premises which lawfully existed before the enactment of these regulations, but which is not in conformity with these regulations, may be continued subject to the following conditions:

- (1) Existing structures in the floodway district shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed expansion would not result in any increase in the one percent annual chance (100-year) flood elevation flood elevation;
- (2) Any modification, alteration, repair, reconstruction or improvement of any kind to an existing structure and/or use located in any floodplain area to an extent or amount of less than 50 percent of its market value shall be elevated to conform to the Virginia Uniform Statewide Building Code; and,
- (3) The substantial improvement of any kind to a structure and/or use, regardless of its locations in a floodplain area, to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with the provisions of these regulations and the Virginia Uniform Statewide Building Code and shall require that the entire structure be brought into full compliance with these provisions.

**Sec. 24-603. Variances; factors to be considered.**

- (a) *Factors in passing upon applications for variance.* In passing upon applications for variances, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:
  - (1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development or activity within any floodway district that will cause any increase in the one (1%) percent annual chance (100-year) flood elevation.
  - (2) The danger that materials may be swept onto other lands or downstream to the injury of others.
  - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
  - (5) The importance of the services provided by the proposed facility to the community.
  - (6) The requirements of the facility for a waterfront location.
  - (7) The availability of alternative locations not subject to flooding for the proposed use.
  - (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - (10) The safety of access by ordinary and emergency vehicles to the property in time of flood.

- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
  - (12) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  - (13) *No variance shall be granted for any accessory structure to be wet floodproofed if that structure exceeds 600 square feet.*
  - ~~(13)~~ (14) Such other factors which are relevant to the purposes of this section.
- (b) *Referral to qualified persons or agencies for technical assistance.* The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities and the adequacy of the plans for flood protection and other related matters.
  - (c) *Factors considered in variance application review.* In reviewing all variance applications, the board of zoning appeals shall consider the following factors:
    - (1) Increases in flood heights;
    - (2) Additional threats to public safety;
    - (3) Extraordinary public expense;
    - (4) Creation of nuisances;
    - (5) Fraud or victimization of the public; and
    - (6) Conflicts with local laws or ordinances.
  - (d) *Issuance.* Variances shall be issued only after the board of zoning appeals has determined that variance will be the minimum required to provide relief from any hardship to the applicant.
  - (e) *Notification of increased risk.* The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one percent annual chance (100-year) flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.
  - (f) *Records of variance actions.* A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

**Secs. 24-604-24-613. Reserved.**

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Ruth M. Larson  
Chairman, Board of Supervisors

ATTEST:

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Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCLENNON	___	___	___
LARSON	___	___	___
ICENHOUR	___	___	___
SADLER	___	___	___
HIPPLE	___	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January,  
2018.

ZO-01-17Div3Fldpln-ord

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL; SECTION 24-2, DEFINITIONS AND BY AMENDING ARTICLE VI, OVERLAY DISTRICTS; DIVISION 3, FLOODPLAIN AREA REGULATIONS; SECTION 24-588, COMPLIANCE, LIABILITY, ABROGATION AND SEVERABILITY; SECTION 24-590, DESIGNATION OF FLOODPLAIN DISTRICTS; SECTION 24-592, PERMITS; SECTION 24-595, REGULATIONS FOR CONSTRUCTION; SECTION 24-597, REGULATIONS FOR REPLACEMENT MANUFACTURED HOMES; SECTION 24-598, RECREATIONAL VEHICLES; AND SECTION 24-603, VARIANCES; FACTORS TO BE CONSIDERED.

BE IT ORDAINED by the Board of Supervisors of the County of James City County, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General; Section 24-2, Definitions and by amending Article VI, Overlay Districts; Division 3, Floodplain Area Regulations; Section 24-588, Compliance, liability, abrogation and severability; Section 24-590, Designation of floodplain districts; Section 24-592, Permits; Section 24-595, Regulations for construction; Section 24-597, Regulations for replacement manufactured homes; Section 24-598, Recreational vehicles; and Section 24-603, Variances; factors to be considered.

This ordinance shall be effective on January 9, 2018.

**Chapter 24. Zoning**

**Article I. In General**

**Sec. 24-2. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Accessory building or structure. A subordinate building or structure customarily incidental to and located upon the same lot occupied by the main use or building. With the exception of detached accessory apartments, as may be approved by a special use permit, no such accessory building or structure shall be used for housekeeping purposes. Garages or other accessory structures such as carports, porches, decks and stoops attached to the main building shall be considered part of the main building. Accessory buildings and structures located ten feet or less from a main structure shall be considered part of the main structure for the purpose of determining side and rear yards. (Refer to the definition of "structure.") Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, an accessory building or structure shall be considered non-residential.

Dry floodproofing - Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, dry floodproofing is a combination of measures that results in a structure, including the attendant utilities and equipment, being watertight with all elements substantially impermeable and with structural components having the capacity to resist flood loads.

Wet floodproofing - Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, wet floodproofing is a floodproofing method that relies on the use of flood damage-

resistant materials and construction techniques in the areas of a structure that are below the elevation required by this standard by intentionally allowing those areas to flood.

## **Article VI. Overlay Districts**

### **Division 3. Floodplain Area Regulations**

#### **Sec. 24-588. Compliance, liability, abrogation and severability.**

- (a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of these regulations and any other applicable ordinances and regulations; including, but not limited to: the Virginia Uniform Statewide Building Code (USBC), the Virginia Industrialized Building Safety Regulations (IBSR), and the Manufactured Home Safety Regulations (MHSR).
- (b) The degree of flood protection sought by the provisions of these regulations is for reasonable regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. These regulations do not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damage.
- (c) Records of actions associated with administering these regulations shall be kept on file and maintained by the director of community development or his designee in perpetuity.
- (d) These regulations shall not create liability on the part of the county or any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.
- (e) Any person who fails to comply with any requirement or provision of this article shall be guilty of the appropriate violation and subject to penalties set forth in section 24-22 of this chapter.
- (f) To the extent that the provisions are more restrictive than previous requirements, this ordinance supersedes any ordinance currently in effect in flood-prone districts. To the extent that any other existing law or regulation is more restrictive or does not conflict, it shall remain in full force and effect. These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances, or building codes. In the event of a conflict between these regulations and any other ordinances, the more restrictive shall govern.
- (g) If any section, subsection, paragraph, sentence, clause, or phrase of this division shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this division. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this division are hereby declared to be severable.

#### **Sec. 24-590. Designation of floodplain districts.**

- (a) The various floodplain districts shall include areas subject to inundation by waters of the one percent annual chance (100-year) flood. The minimum basis for the delineation of these districts shall be, but not be limited to, the December 16, 2015 Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs) prepared by the Federal Emergency Management Agency (FEMA), and subsequent revisions or amendments thereto. In areas with no base flood elevation provided by the FIRM/FIS, the best available data for the one percent annual chance (100-year) flood elevations and floodways from



federal, state and local sources shall be used when available. Where the specific one percent annual chance (100-year) flood elevation cannot be determined for an area by using available sources of data, then the applicant for the proposed use, development and/or activity shall determine this elevation to the satisfaction of the director of community development or his designee in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall consider full development of the watershed and shall be submitted in sufficient detail to allow a thorough review by the director of community development or his designee.

Where flood elevations are provided by the FEMA, these elevations shall not be changed except with FEMA approval. Local sources of flood-prone area data include, but are not limited to, the Mill Creek-Lake Powell Watershed Study, GKY and Associates, 1988 report, locally approved watershed management plans and comprehensive drainage studies.

When base flood elevations have increased or decreased resulting from physical changes affecting flooding conditions, technical or scientific data shall be submitted to FEMA no later than six months after the date such information becomes available. Such submission is necessary so that, upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirement will be based upon current data.

- (b) The floodway district, minimally shown on the maps accompanying the flood insurance study, is established for purposes of these regulations using the criterion that certain areas within the floodplain must be kept free of encroachment in order that the one percent annual chance (100-year) flood be conveyed without increasing the water surface areas included in this district.
- (c) The flood-fringe district shall be that area of the one percent annual chance (100-year) flood not included in the floodway district. The basis for the outmost boundary of the district shall be the one percent annual chance (100-year) elevations minimally shown as Zones AE and AO on the maps accompanying the flood insurance study.
- (d) The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided but where a one percent annual chance (100-year) flood boundary has been approximated. Such areas are minimally shown as Zone A on the maps accompanying the flood insurance study. Consider other available data such as presented in subsection (a) of this section as the basis for elevating residential structures to or above base flood level, and for floodproofing or elevating nonresidential structures to or above base flood level.
- (e) Coastal A zones shall be those areas as defined by the Virginia Uniform Statewide Building Code that are subject to wave heights between 1.5 feet and 3 feet and identified on the FIRM as AE areas that are seaward of the Limit of Moderate Wave Action (LiMWA) line.
- (f) Coastal high-hazard area districts shall be those portions of land within the coastal floodplain subject to inundations by high velocity waters and wave action greater than three feet. Such areas are minimally shown as Zones V and VE.

#### **Sec. 24-592. Permits.**

A permit is required for all proposed construction and other developments, including the placement of manufactured homes, within the floodway or any floodplain district. An application for subdivision, site plan, rezoning, building permit, special use permit, Virginia Erosion and Sediment Control Program/Virginia Stormwater Management Program permit, wetlands permit or other local development permit shall be considered an application for development under these regulations. The applicant shall be

informed of the provisions of this article as they may apply to the property and no permit shall be issued until the applicant has complied with such provisions. Applications will be reviewed to ensure the proposed construction or other developments will be reasonably safe from flooding.

**Sec. 24-595. Regulations for construction.**

- a) The construction or placement of any structure or obstruction, filling or changing the cross-section or flow characteristics within the one percent annual chance (100-year) flood shall not be permitted unless the project is in conformance with the following requirements:
  - (1) All construction shall use methods that minimize flood damage and which are in accordance with the Virginia Uniform Statewide Building Code. Structures shall be constructed with materials and equipment resistant to flood damage and shall be anchored to prevent floatation, collapse, or lateral movement.
  - (2) The finished elevation of the lowest floor, including the basement or cellar of any building, shall have at least two feet freeboard above the one percent annual chance (100-year) flood elevation. For nonresidential structures, excluding accessory structures which conform to 24-595(a)(9), dry floodproofing up to the level of two feet freeboard in accordance with the Virginia Uniform Statewide Building Code may be provided in lieu of the finished grade requirement described herein.
  - (3) Utility and sanitary facilities, including but not limited to mechanical, plumbing and electrical systems and gas lines, shall be floodproofed up to the level of two feet freeboard above the one percent annual chance (100-year) base flood elevation.
  - (4) Encroachments, including fill, new construction, substantial improvements and other development are prohibited within the floodway or any floodplain district unless it has been demonstrated through hydrologic and hydraulic analyses that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken by a professional engineer and shall be submitted in sufficient detail to allow a thorough review by the director of community development or his designee. Hydrologic and hydraulic analyses shall not be required for properties affected only by coastal (tidal) flooding.
  - (5) All new construction and substantial improved structures in Zone AO shall meet the following requirements:
    - a. The lowest floor, including basements, shall be at or above the highest adjacent grade and two feet above the FIRM's depth number.
    - b. Nonresidential structures may use dry floodproofing in accordance with the Virginia Uniform Statewide Building Code in lieu of the finished grade requirement described herein.
    - c. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.
  - (6) All new construction and substantial improvements in Zones V, VE, and Coastal A shall meet the following requirements:
    - a. The structure shall be elevated on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated at least two feet above the base flood level. The pile of column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to effects of wind and water loads acting simultaneously on all building components. A

registered design professional engineer or architect shall develop and seal the structural design, specifications and plans for the construction, and shall certify the design and methods of construction.

- b. The space below the lowest floor shall be either free of obstruction or constructed with nonsupporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall collapse from water loads that are less than that which would occur during the base flood.
  - c. New construction shall be landward of reach of mean high tide.
  - d. Fill for structural support and alterations of sand dunes are prohibited.
- (7) The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access or storage, have permanent openings designed to allow the exit of floodwaters in accordance with the Virginia Statewide Building Code and Federal Code 44CRF Section 60.3 approved by the director of building safety and permits. This requirement applies to all floodplain districts, including Zones V, VE, and Coastal A.
- (8) Prior to issuance of a certificate of occupancy, the owner of any structure located in a floodplain district shall submit a completed elevation certificate or floodproofing certificate from a registered professional engineer or architect, as appropriate, to the director of building safety and permits.
- (9) Accessory structures shall comply with elevation or dry floodproofing requirements in section 24-595 (a)(2) or shall conform to the following standards:
- a) Not located in a floodway;
  - b) Not be used for human habitation;
  - c) Be limited to no more than 600 square feet in total floor area;
  - d) Be usable only for parking of vehicles or limited storage;
  - e) Be constructed with flood damage-resistant material to the level of two feet freeboard above the one percent annual chance (100-year) base flood elevation;
  - f) Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
  - g) Be anchored to prevent flotation;
  - h) All utilities, including but not limited to mechanical, plumbing and electrical systems and gas lines, shall be elevated or floodproofed up to the level of two feet freeboard above the one percent annual chance (100-year) base flood elevation;
  - i) Shall be provided with flood openings which shall meet the following criteria:
    - 1. There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls;
    - 2. The total net area of all flood openings shall be at least one square inch for each square foot of enclosed area (non-engineered flood opening), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification

requirement may be satisfied by an individual certification or an Evaluation Report issued by ICC Evaluation Service, Inc.;

3. The bottom of each flood opening shall be one foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening;
  4. Any louvers, screens or other covers for the flood opening shall allow the automatic flow of floodwaters into and out of the enclosed area.
- j) Such accessory structure shall not be used to store any hazardous material as listed in section 24-593 (a)(4).
- (10) All other federal and state permits shall be obtained by the applicant before the development will be permitted under this chapter.
- (b) It shall be the responsibility of the applicant to provide this data, certified by a licensed surveyor or engineer or other source acceptable to the director of building safety and permits.

**Sec. 24-597. Regulations for replacement manufactured homes.**

- (a) Replacement manufactured homes shall be elevated on a permanent foundation in accordance with the construction standards identified in section 24-595.
- (b) In floodplain areas, replacement manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors in either of the following arrangements:
  - (1) Over-the-top ties at each corner plus one frame tie at the middle of each side; or
  - (2) Frame ties at each corner plus no less than five evenly spaced additional frame ties per side.
- (c) All ties to the ground shall be able to carry a force of 4,800 pounds.

**Sec. 24-598. Recreational vehicles.**

Recreational vehicles placed on sites must either be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use or meet requirements for placement, elevation and anchoring requirements for manufactured homes for the floodplain district in which the recreational vehicle is located.

**Sec. 24-603. Variances; factors to be considered.**

- (a) *Factors in passing upon applications for variance.* In passing upon applications for variances, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:
  - (1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development or activity within any floodway district that will cause any increase in the one (1%) percent annual chance (100-year) flood elevation.
  - (2) The danger that materials may be swept onto other lands or downstream to the injury of others.
  - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
  - (5) The importance of the services provided by the proposed facility to the community.
  - (6) The requirements of the facility for a waterfront location.
  - (7) The availability of alternative locations not subject to flooding for the proposed use.
  - (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - (10) The safety of access by ordinary and emergency vehicles to the property in time of flood.
  - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
  - (12) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  - (13) No variance shall be granted for any accessory structure to be wet floodproofed if that structure exceeds 600 square feet.
  - (14) Such other factors which are relevant to the purposes of this section.
- (b) *Referral to qualified persons or agencies for technical assistance.* The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities and the adequacy of the plans for flood protection and other related matters.
- (c) *Factors considered in variance application review.* In reviewing all variance applications, the board of zoning appeals shall consider the following factors:
- (1) Increases in flood heights;
  - (2) Additional threats to public safety;
  - (3) Extraordinary public expense;
  - (4) Creation of nuisances;
  - (5) Fraud or victimization of the public; and
  - (6) Conflicts with local laws or ordinances.
- (d) *Issuance.* Variances shall be issued only after the board of zoning appeals has determined that variance will be the minimum required to provide relief from any hardship to the applicant.
- (e) *Notification of increased risk.* The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one percent annual chance (100-year) flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.

- (f) *Records of variance actions.* A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

**Secs. 24-604-24-613. Reserved.**

ZO-01-17Div3Fldpln-ord-final

**Unapproved Minutes of the December 6, 2017  
Planning Commission Meeting**

ZO-0001-2017. Amendments to the Zoning Ordinance, Division 3, Floodplain Area Regulations

Ms. Christy Parrish, Zoning Administrator, stated that in response to recent guidance from the Federal Emergency Management Agency (FEMA) and the Department of Conservation and Recreation (DCR), staff has identified the need to update the Floodplain Ordinance to address the construction regulations of small accessory structures in the special flood hazard area. Ms. Parrish stated that the current regulations only permit the construction of nonresidential structures in the floodplain when the lowest floor of that structure is either elevated or watertight flood-proofed up to the level of two feet above the base flood elevation. Ms. Parrish stated that all structures that are not used for dwelling purposes are considered nonresidential, which includes residential detached garages and sheds. Ms. Parrish stated that as a result of the recent FEMA determinations, DCR guidance and model regulations have been recently updated to address wet-proofing construction standards for small accessory structures in the floodplain. Ms. Parrish stated that if adopted locally it would provide a lower construction cost option for property owners. Ms. Parrish further stated that staff has used this opportunity with consult with DCR to re-review all sections of the Floodplain Area Regulations to ensure compliance with the National Flood Insurance Program. Ms. Parrish stated that staff did receive minor clarifying updates to various sections, but did not receive any large substantive changes.

Ms. Parrish stated that on November 9, 2017, the Policy Committee voted 4-0 to recommend approval of all the proposed changes. Ms. Parrish stated that staff recommends that the Commission recommend approval of the ordinance amendments to the Board of Supervisors for consideration at its January 9, 2018 meeting.

Mr. Haldeman inquired if manufactured homes would now be treated the same way as accessory structures.

Ms. Parrish stated that new manufactured homes are not permitted within the Special Flood Hazard Area. Ms. Parrish stated that existing manufactured homes would have to be elevated if they are modified.

Mr. Krapf opened the Public Hearing.

As no one wished to speak Mr. Krapf closed the Public Hearing.

Mr. Haldeman made a motion to recommend approval of the Ordinance amendments.

On a roll call vote, the Commission voted to recommend approval of ZO-0001-2017. Amendments to the Zoning Ordinance, Division 3, Floodplain Area Regulations (6-0).

**ITEM SUMMARY**

DATE: 1/9/2018

TO: The Board of Supervisors

FROM: Jose Ribeiro, Senior Planner II

SUBJECT: SUP-0028-2016. Solar Electrical Generation Facility at Norge

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**ATTACHMENTS:**

	Description	Type
☐	Staff Report	Staff Report
☐	Attachment 1 Resolution	Resolution
☐	Attachment 2 PC Adopted Resolution for Consistency with the adopted Comprehensive Plan	Backup Material
☐	Attachment 3 Unapproved Minutes of the December 6, 2017, Planning Commission meeting	Minutes
☐	Attachment 4 Location Map	Backup Material
☐	Attachment 5 Master Plan	Backup Material
☐	Attachment 6 Part 1 Community Impact Statement	Backup Material
☐	Attachment 6 Part 2 Community Impact Statement	Backup Material
☐	Attachment 6 Part 3 Community Impact Statement	Backup Material
☐	Attachment 6 Part 4 Community Impact Statement	Backup Material
☐	Attachment 7 Exhibit showing the elements of a Ground Mounted Array	Backup Material
☐	Attachment 8 Buffer Visual Simulations prepared by the applicant	Backup Material
☐	Attachment 9 Citizen Comments	Backup Material
☐	Attachment 10 Economic and Fiscal Impact	Backup Material
☐	Attachment 11 Applicant Responses	Backup Material
☐	Attachment 12 Key Permits and Review Update	Backup Material

**REVIEWERS:**

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	12/21/2017 - 4:23 PM
Development Management	Holt, Paul	Approved	12/21/2017 - 4:24 PM



Publication Management	Burcham, Nan	Approved	12/21/2017 - 4:26 PM
Legal Review	Kinsman, Adam	Approved	12/22/2017 - 3:02 PM
Board Secretary	Fellows, Teresa	Approved	12/28/2017 - 11:34 AM
Board Secretary	Purse, Jason	Approved	1/2/2018 - 1:53 PM
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 1:55 PM

**SPECIAL USE PERMIT-0028-2016. Solar Electrical Generation Facility at Norge**

**Staff Report for the January 9, 2018, Board of Supervisors Public Hearing**

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**SUMMARY FACTS**

Applicant: Mr. Drew Gibbons of SunPower Devco, LLC

Land Owner: Whisper Ridge, LLC

Proposal: To allow the construction and operation of a private solar electrical generation facility.

Locations: 320, 339, 341 and 345 Farmville Lane and parcels identified as “Parcels 1, 2, C, D and I” as shown on a plat recorded in 1975.

Tax Map/Parcel Nos.: 2320100052A, 2320100052G, 2320100052 and 2320100055

Project Acreage: The nine parcels total ± 224 acres

Zoning: A-1, General Agricultural (± 215.68 acres) and R-2, General Residential (± 8.34 acres)

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

Staff Contact: Jose Ribeiro, Senior Planner II

**PUBLIC HEARING DATES**

Planning Commission: February 1, 2017, 7:00 p.m. (deferred by applicant)  
March 1, 2017, 7:00 p.m. (deferred by applicant)  
April 5, 2017, 7:00 p.m.  
December 6, 2017, 7:00 p.m.

Board of Supervisors: May 9, 2017, 5:00 p.m. (deferred by applicant to June)  
June 13, 2017, 5:00 p.m. (deferred by applicant to August)  
August 8, 2017, 5:00 p.m. (deferred by applicant to October)  
October 10, 2017, 5:00 p.m. (remanded to the Planning Commission)  
January 9, 2018, 5:00 p.m.

**FACTORS FAVORABLE**

1. With the proposed Special Use Permit (SUP) conditions, the proposal is compatible with surrounding zoning and development.
2. The proposal is consistent with the Comprehensive Plan adopted in 2015, “*Toward 2035: Leading the Way.*”
3. This type of solar power facility is expected to have very limited impacts (noise, odor or visual).

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*This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.*

**SPECIAL USE PERMIT-0028-2016. Solar Electrical Generation Facility at Norge**

**Staff Report for the January 9, 2018, Board of Supervisors Public Hearing**

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**FACTORS UNFAVORABLE**

1. Citizens have expressed concerns with this proposal.
2. There will be some limited impacts to residential neighborhoods during the project’s temporary construction period.

**SUMMARY STAFF RECOMMENDATION**

Staff recommends the Board of Supervisors approve this SUP application, subject to the attached resolution.

Proposed Changes Made Since the October 10 Board of Supervisors Meeting

On October 10, 2017, the Board of Supervisors remanded this application back to the Planning Commission for its consideration at the December 6, 2017 meeting, due to substantive changes proposed by the applicant. Below is a summary of the changes made to this application since the last Board meeting:

- The applicant is no longer proposing vehicular access to the site via Farmville Lane/Oslo Court but, instead, through Old Church Road (Attachment No. 4). The applicant has indicated that the proposed access route will accommodate all vehicular traffic during and after the construction period and that traffic through Old Church Road is expected to create less impact to the neighborhood than vehicular access through Farmville Lane, as previously proposed. The Virginia Department of Transportation (VDOT) staff has reviewed this application and offers no objections regarding the proposed access route. Staff has updated SUP Condition No. 5. Vehicular Access, in order to reflect the changes proposed by the applicant.

- Further, based on feedback received by citizens, particularly with regard to the increase in traffic on local roads during the construction period, the applicant has proposed to use an off-site parking lot location to accommodate parking for workers during the construction period of the project. According to SunPower, the construction period is typically completed within nine months. However, the peak volume of traffic and the number of construction workers visiting the site occurs between four and five months. During the peak construction period, it is expected that at any one time, there could be 60 to 80 workers on-site. SunPower has indicated that the proposed off-site parking area is expected to accommodate up to 80 vehicles for their workforce during the construction period. From the off-site parking lot location, workers would be transported to the construction site via a shuttle bus, thereby reducing the volume of construction related traffic created by private passenger vehicles. According to SunPower, after the construction period is over, the site will likely receive around four trips per day during normal operation. Staff has created a new SUP condition to address the proposed off-site parking. SUP Condition No. 16 requires the applicant to submit a plan identifying the location of the off-site parking area and number of parking spaces needed. In order to ensure that construction workers’ vehicles are not parking on the construction site, the condition limits the number of vehicles that may be parked on-site.

**PLANNING COMMISSION RECOMENDATION**

At its December 6, 2017 meeting, the Planning Commission recommended approval of this application by a vote of 5-1. The Planning Commission also approved, by a vote of 6-0, a resolution to find the proposal consistent with the Comprehensive Plan in accordance with Section 15.2-2232 of the Code of Virginia (Attachment No. 2).

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**SPECIAL USE PERMIT-0028-2016. Solar Electrical Generation Facility at Norge**

**Staff Report for the January 9, 2018, Board of Supervisors Public Hearing**

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**Proposed Changes Made Since the December 6, 2017 Planning Commission Meeting**

None.

**PLANNING AND ZONING HISTORY**

- The Board of Supervisors denied Case No. Z-0009-1985 on June 10, 1995. The proposal was to rezone property located at 341 Farmville Lane from A-1, General Agricultural, to A-2, Limited Agricultural.

**PROJECT DESCRIPTION**

Mr. Drew Gibbons, of SunPower Devco, LLC, has applied for an SUP to allow the construction and operation of a private electrical solar generation facility on properties located in Norge. Electrical generation facilities (public or private), electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more is a specially permitted use in both A-1 and R-2 Zoning Districts.

The proposed facility will be located primarily on a parcel of approximately 216 acres with eight adjacent smaller parcels making up the entire area subject to this SUP. The property is currently being used for agricultural purposes and is wooded with wetland systems along its eastern and western boundaries. The proposed vehicular access from the site to Richmond Road is via Old Church Road which runs through Norvalia subdivision (located north of the site). There is an old farmhouse located at the center of the property. Norge Farm Lane is a private access road located within the largest of the parcels which provides access to the site and to the property located to the south (Hidden Acres Farms).

According to the applicant, once the solar electrical generation facility is operational, it will have capacity up to 20 megawatts; or the equivalent to supply  $\pm$  4,000 households per year. This project is designed as a “utility-scale solar power” which means that the scope and size of its operation and output are relatively small and the electricity that it produces is sold to wholesale utility buyers, not end-use consumers.

The major components of the facility (shown and labeled on the Master Plan) are the ground-mounted arrays of photovoltaic (solar) panels. Each array is made of a number of panels and each panel is composed of a number of smaller “cells,” which are the primary units that convert solar energy into electricity (Attachment No. 7). The arrays are approximately 13 feet in height (when positioned at the steepest angle), arranged in rows, spaced  $\pm$  15 feet to 25 feet apart and mounted on single-axis trackers. Trackers are devices that automatically orient the arrays toward the direction of sun. The Master Plan shows  $\pm$  820 trackers with 82,000 panels in total (100 panels per tracker). However, this number may change should the project move toward a more specific and detailed design stage. In addition to the arrays, the project will include a small enclosed switchgear facility, inverters, transformers, buried electrical conduits, a storage shed and unpaved access roads (shown in orange on the Master Plan). No off-site substations or switching station are proposed as part of this project. Approximately 153 acres of land will be disturbed as part of this proposal.

If this project receives all the required local, state and federal approvals required to operate, it will be the first utility-scale solar power generation facility in James City County. Currently, there are a number of projects similar in size and solar/electric generation capacity in many areas of the Commonwealth, which are either under regulatory review process and/or under construction (e.g., solar facilities in Bedford, Buckingham, King George, King William and

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## **SPECIAL USE PERMIT-0028-2016. Solar Electrical Generation Facility at Norge**

### **Staff Report for the January 9, 2018, Board of Supervisors Public Hearing**

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New Kent counties) or operational (e.g., solar facilities in Powhatan, Isle of Wight and Accomack counties).

#### Summary of Electrical Generation and Distribution

The solar-to-electricity conversion process is made possible by the presence of inverters. Inverters convert direct current (DC) voltage collected in the arrays to alternating current (AC) needed for electricity. The power is then conveyed underground to a medium voltage metal enclosed switchgear which will connect to Dominion Energy's distribution network through an existing electrical trunk line that runs adjacent to the eastern property line. The facility will only generate energy. The distribution of the electricity produced at the site will be the responsibility of Dominion Energy, as they own the overhead utilities. According to the applicant, SunPower's ownership and maintenance of the facility ends at the switchgear.

#### Summary of Regulatory and Approval Process

In addition to an SUP issued by the County, this project will require an agreement with Dominion Energy to interconnect into the electrical power distribution network. According to the applicant, SunPower submitted an interconnection request to Dominion Energy in March 2016 and expects to execute an interconnection agreement in early 2017. This project also requires issuance of a Renewable Energy "Permit by Rule" by the Virginia Department of Environmental Quality (DEQ). As part of this approval process, SunPower will provide an analysis of impacts to natural resources which will be reviewed by different state agencies, including the Department of Game and Inland Fisheries, the Department of Conservation and Recreation and the Department of Historic Resources (DHR). According to the applicant, SunPower has initiated the "Permit by Rule" process with an initial notice of intent filing and pre-application meeting with DEQ. The applicant has provided an update on some of

the key federal, state and local permits or reviews required for this project (Attachment No. 12).

#### Decommissioning Plan

According to the applicant, the land for the project will be leased and the lease term of the land agreement is 35 years (the estimated operational life for this facility). After the project life cycle is over, or should the operation of the facility be terminated prior to its life cycle, SunPower will implement a decommissioning and restoration plan. The purpose of the plan (SUP Condition No. 15) is to ensure proper removal of all associated components of the project and restoration of the site to pre-existing conditions.

### **SURROUNDING ZONING AND DEVELOPMENT**

- Surrounding zoning designations include:
  - a. Properties immediately north and east of this site are zoned R-2 (Kristiansand, Walnut Grove, Norvalia, Norge Court and Farmville Estates subdivisions).
  - b. Property to the south is zoned A-1 and undeveloped. Properties to the west are zoned A-1 and PUD, Planned Unit Development (Oakland and Village at Candle Station subdivisions).

### **COMPREHENSIVE PLAN**

1. The 2035 Comprehensive Plan Land Use Map designates the properties subject to this SUP as Low Density Residential (LDR). Recommended uses in LDR areas include single-family residences, schools, places of public assembly and very limited commercial uses. The Comprehensive Plan does not specifically

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**SPECIAL USE PERMIT-0028-2016. Solar Electrical Generation Facility at Norge**

**Staff Report for the January 9, 2018, Board of Supervisors Public Hearing**

identify solar power, or utilities in general, in LDR or the other land use designation areas; therefore, staff has reviewed this application under the “very limited commercial uses” development standards listed in LDR (with staff’s comments in italics below):

- a. Complement the residential character of the area;

*It is expected that the majority of the project’s impacts to nearby residential neighborhoods will occur during the construction period of the facility (e.g., traffic, dust and noise). Staff drafted a condition (SUP Condition No. 13 Construction Management and Mitigation Plan) to address these impacts by:*

- *Limiting all piling driving activity on the site between the hours of 8 a.m. to 6 p.m. (Monday to Friday);*
- *Limiting clearing and grading on the site between the hours of 7 a.m. to 7 p.m. (Monday to Friday);*
- *Prohibiting delivery traffic to the site during pick-up/drop-off times for surrounding schools; and*
- *Providing dust mitigation features such as water trucks, mulch or similar methods.*

*Once the construction period is finalized, the facility is expected to generate very limited impacts to the adjacent residential neighborhoods. A 50-foot vegetative buffer is proposed in order to screen the facility from residential areas, limiting visual impacts and not detracting from the residential character of the area.*

- b. Have traffic, noise, lighting and other impacts similar to surrounding residences;

*Although the footprint of the entire facility encompasses an area of ± 200 acres, its impacts to surrounding properties is expected to be very limited, as the solar arrays are not expected to generate noise, odor or glare from the sun. According to the applicant, “the noise generated by the solar equipment on site (trackers and inverters/transformers) at peak performance during the day will be no louder than a typical refrigerator, and should be inaudible at the property boundary.” The panels do not emit odor or glare from the sun as they are not of a reflective nature (SUP Condition No. 20), and they will not raise temperatures in the surrounding area as they absorb the sun’s energy and heat, which is converted to electricity. The applicant is required to submit a pollution prevention plan as part of the overall Stormwater Pollution Prevention Plan. Additionally, SUP Condition No. 13 requires the applicant to provide a mitigation plan to address storage, transportation and disposal of any waste and/or hazardous materials. In order to reduce the number of vehicular traffic at Norvalia during the construction period, SUP Condition No. 16 requires provision of an off-site parking area for construction workers and a bus shuttle system to bring workers to and from the site.*

- c. Generally be located on collector or arterial roads at intersections;

*The site will take access via Old Church Road which is neither a collector nor an arterial road. However, staff finds that once the construction period is over, the facility will generate vehicular trips similar to adjacent residential uses.*

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**SPECIAL USE PERMIT-0028-2016. Solar Electrical Generation Facility at Norge**

**Staff Report for the January 9, 2018, Board of Supervisors Public Hearing**

- d. Act as a transitional use between residential and commercial areas or, if located within a residential community, serve to complement the residential character of the area rather than altering its nature;

*The site for the proposed facility is not located within a single residential community, but rather, next to existing neighborhoods such as Norvalia, Norge Court and Farmville Estates subdivisions and lands designated Rural Lands to the south and west.*

- e. Provide adequate screening and buffering to protect the character of nearby residential areas; and

*Due to existing forested area along most of its property lines, the site is well buffered from most adjacent properties. In areas closer to residential lots with less existing buffer, SUP Condition No. 8 specifies that supplemental landscaping shall be provided. The applicant has provided drawings showing how the existing and proposed vegetative buffer will screen the facility (Attachment No. 8).*

- f. Generally intended to support the residential area in which they are located.

*The proposed facility will generate electricity that will be distributed by Dominion Energy to its general customer base rather than servicing one specific area.*

On balance, staff finds that this proposal meets the criteria for very limited commercial uses, and based on its limited impacts, staff finds that this proposal is consistent with the Comprehensive Plan.

In November 2016, staff visited a solar electrical generation facility (Woodland Solar Center) located in Isle of Wight County, Virginia, and found similar conditions on the site (no odor or noise) as described by the applicant.

- 2. Surrounding Comprehensive Plan designations include:
  - a. Properties immediately north and east are designated as Low Density Residential.
  - b. Properties to the south and west are designated as Rural Lands.

**PUBLIC IMPACTS**

- 1. Anticipated Impact on Public Facilities and Services:
  - a. *Streets.* Access to this property from Richmond Road is proposed through Old Church Road in the Norvalia neighborhood. Old Church Road is a 40-foot-wide state maintained right-of-way and it terminates at a cul-de-sac. From that point on, there is an unpaved and unimproved access road (located within a 50-foot-wide private right-of-way owned by Whisper Ridge, LLC) which provides vehicular access to adjacent properties in the back of the neighborhood and to the site.

The applicant has indicated that the current configuration and width of the proposed access road is sufficient to accommodate tractor trailer truck deliveries to the site and would likely not require the acquisition of additional land for right-of-way and/or a construction access easement. Additionally, the applicant has indicated that vehicular access through Old Church Road and the private 50-foot right-of-

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**SPECIAL USE PERMIT-0028-2016. Solar Electrical Generation Facility at Norge**

**Staff Report for the January 9, 2018, Board of Supervisors Public Hearing**

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way is likely to create less impacts to residents as fewer residences front on Old Church Road than Farmville Lane. On November 2, 2017, the applicant met with approximately 15 homeowners whose houses abut Old Church Road in Norvalia to discuss the change in vehicular access to the site of the proposed solar facility.

The VDOT staff has reviewed this application and offers no objections regarding the proposed access route. SUP Condition No. 5 requires vehicular access to and from the site through Old Church Road.

Staff notes that the applicant has indicated a willingness to work with staff to best define appropriate construction delivery times in an effort to avoid conflicts with school buses on the surrounding residential streets during peak pick-up and drop-off times. SUP Condition No. 13 requires the applicant to provide a Construction Management Plan which includes limitations to construction delivery times.

The applicant will be required to apply for a Construction Entrance Permit off Old Church Road. As part of this process, VDOT will conduct an existing conditions assessment of the roadway and prepare an estimated cost for the removal and restoration of the roadway in the vicinity of the construction entrance area. SunPower will be required to post a Surety Bond to cover the cost of potential repairs to the roadway in and around the construction entrance area. Additionally, SUP Condition No. 4 requires SunPower to submit a Construction Traffic Mitigation Plan for review and approval, identifying all necessary repairs to public roads internal to Norvalia required as a result of any damage from the construction traffic.

Norge Farm Lane is a road located within property at 341 Farmville Lane providing vehicular access to and from the site and to abutting property to the south (Hidden Acres Farm). According to the applicant, SunPower will utilize Norge Farm Lane for vehicular construction access. County records show this road located within an easement; however, upon research, staff found no evidence of a Deed specifying the dimension and the rights of use. The applicant has indicated that Norge Farm Lane will remain open and will continue to provide access to Hidden Acres Farm's property.

- b. *Schools/Fire/Utilities.* No impacts anticipated. According to the applicant, the proposed facility will not require water or sewer service during construction or during regular operation. The solar panels will likely require cleaning twice a year and will use a relatively small amount of water which can be transported on the site via truck. As for Fire and other emergency services, SUP Condition No. 12 requires that the applicant prepare and maintain an Emergency Management Plan for the facility.
- c. *Environmental/Cultural/Historic.* This project is located in the Yarmouth Creek watershed. On October 14, 2003, the James City County Board of Supervisors adopted goals and priorities associated with the Yarmouth Creek Watershed Plan. Specific items of the plan which applies to this application include special stormwater criteria and stream restoration sites on both the east and west portions of the project site. Clearing of vegetation and all proposed structures associated with this project, such as the solar arrays, fencing and sheds, will be located outside Resource Protection Areas (RPAs) and areas of 25% slopes near the RPA buffers. At the site plan stages the applicant shall submit a Stormwater Management Plan addressing both water quality and quantity

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**SPECIAL USE PERMIT-0028-2016. Solar Electrical Generation Facility at Norge**

**Staff Report for the January 9, 2018, Board of Supervisors Public Hearing**

and a comprehensive erosion control and stormwater analysis report. Stormwater and Resource Protection has reviewed this application and recommends approval.

In order to protect the site's prime farmland soils over the life of the facility ( $\pm$  35 years per lease), the applicant will be required to develop a Nutrient Management Plan (SUP Condition No. 3) addressing the establishment and maintenance of different types of vegetative cover to protect the long-term soil health for potential future farming purposes.

The area subject to this SUP is located within a "moderate sensitivity area" as shown on the Archaeological Sensitive Areas map on the Comprehensive Plan. The applicant will comply with the County's Archaeological Policy and submit a Phase I Cultural Resource Investigation for review and approval. Staff notes that as part of the Renewable Energy "Permit by Rule" the applicant will perform historical and archaeological studies on the property which will be reviewed by the DHR.

The Lightfoot and Yarmouth Creek Conservation sites are located within a two-mile radius of the project area. These are areas of high biodiversity significance; resources of concern at these sites include the small whorled pogonia. SUP Condition No. 7 requires the applicant to comply with the County's adopted Natural Resource Policy.

- d. *Nearby and Surrounding Properties.* The attached SUP Conditions are proposed to mitigate impacts to nearby and surrounding properties, specifically impacts associated with visual screening and construction activity.

**STAFF RECOMMENDATION**

Staff finds the proposal to be compatible with surrounding zoning and development and that it is consistent with the Comprehensive Plan adopted in 2015, "*Toward 2035: Leading the Way.*" Staff recommends the Board of Supervisors approve this application subject to the attached resolution.

JR/nb  
SUP28-16Solar-Norge

Attachments:

1. Resolution
2. Adopted Resolution for Consistency with Section 15.2-2232 of the Code of Virginia
3. Unapproved Minutes of the December 6, 2017, Planning Commission Meeting
4. Location Map
5. Master Plan
6. Community Impact Statement
7. Exhibit Showing the Elements of a Ground-Mounted Array of Solar Panel
8. Buffer Visual Simulations Prepared by Kimley-Horn
9. Citizen Comments During the March 1, 2017, Planning Commission Meeting
10. The Economic and Fiscal Contribution that the Norge Solar Project Will Make to James City County
11. Applicant's Responses to Comments Received from Community Meeting
12. Updates on Key Permits and Reviews

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## RESOLUTION

### CASE NO. SUP-0028-2016. SOLAR ELECTRICAL GENERATION FACILITY AT NORGE

WHEREAS, the Board of Supervisors of James City County, Virginia, has adopted by Ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Whisper Ridge, LLC (the "Owner") owns properties located at 320, 339, 341 and 345 Farmville Lane, further identified as James City County Real Estate Tax Map Parcel Nos. 2320100052A, 2320100052G, 2320100052 and 2320100055 respectively, and other areas legally described and identified as: All those pieces or parcels of property situate, lying and being in James City County, Virginia, consisting of Parcels 1, 2, C, D and I, comprising of 0.35 acre, 0.08 acre, 0.08 acre, 0.03 acre and 0.09 acre, respectively, all set as forth and shown on a certain plat of survey made by E. E. Paine, Inc., entitled "Plat of the Property of J. Guy and Christina M. Hughes" dated June 17, 1974, revised September 3, 1975, and recorded in the Office of the Clerk of the Circuit Court for the County of James City, Virginia, on November 24, 1975, in Plat Book 33 at Pages 23 and 24" (collectively, the "Properties"). The Properties are zoned A-1, General Agricultural and R-2, General Residential; and

WHEREAS, Mr. Drew Gibbons of SunPower Devco, LLC, on behalf of the Owner, has applied for an SUP to allow for the construction of a solar electrical generation facility on the Properties as shown on a plan titled "Norge Solar Master Plan" dated October 4, 2017; and

WHEREAS, a public hearing was advertised, adjoining property owners notified and a hearing conducted on Case No. SUP-0028-2016; and

WHEREAS, following a public hearing on December 6, 2017, the Planning Commission recommended approval of this application by a vote of 5-1 and found the proposal consistent with the Comprehensive Plan by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after consideration of the factors in Section 24-9 of the James City County Code, does hereby approve the issuance of Case No. SUP-0028-2016, as described herein with the following conditions:

1. Master Plan. This SUP shall be valid for the construction and operation of a photovoltaic solar electrical generation facility with a capacity of up to 5,000 kilovolt amperes or more, and electrical transmission lines capable of transmitting 69 kilovolts or more (the "Facility"). The Facility shall be located at 320, 339, 341 and 345 Farmville Lane, which are identified as James City County Real Estate Tax Map Parcel Nos. 2320100052A, 2320100052G, 2320100052 and 2320100055, respectively, and parcels described as "All those pieces or parcel of property situate, lying and being in James City County, Virginia, consisting of Parcels 1, 2, C, D and I, comprising of 0.35 acre, 0.08 acre, 0.08 acre, 0.03 acre and 0.09 acre, respectively, all set as forth and shown on a certain plat of survey made by E. E. Paine, Inc., entitled "Plat of the Property of J. Guy and Christina M. Hughes" dated June 17, 1974, revised September 3, 1975, and recorded in the Office of the Clerk of the Circuit Court for the County of

James City, Virginia, on November 24, 1975, in Plat Book 33 at Pages 23 and 24” (together, the “Properties”). The Facility shall be in accordance with the “Norge Solar Master Plan” prepared by Kimley-Horn and dated October 4, 2017, (the “Master Plan”), with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended.

2. Boundary Line Extinguishment. Prior to final approval of any site plan, a subdivision plat that extinguishes the lot lines separating properties located at 339, 341 and 345 Farmville Lane shall be recorded.
3. Nutrient Management Plan. A Nutrient Management Plan (NMP) shall be prepared by a certified nutrient management planner for all of the area within the defined limits of disturbance for the Properties. The purpose of the NMP is to provide for long-term establishment and maintenance of turf grass, pasture, rangeland or other similar type vegetative cover which preserve the long-term soil health for potential future farming purposes. The NMP shall include measures necessary to manage and limit yearly nutrient application rates in order to best protect the surrounding Resource Protection Areas (RPA) and ravines. The NMP shall have a component which specifically identifies, maintains and protects designated Prime Farmland soil mapping units consistent with the Soil Survey of James City County and the City of Williamsburg, Virginia, (April 1985) and the County’s Comprehensive Plan. The NMP shall be approved by the County’s Director of Stormwater and Resource Protection prior to issuance of any Certificate of Completion or Certificate of Occupancy for the Facility. Upon approval of the NMP, the Facility operator shall be responsible for ensuring that any nutrient applied in the area within the defined limits of work is in strict accordance with the NMP.
4. Construction Traffic Mitigation Plan. A Construction Traffic Mitigation Plan (CTMP), shall be approved by the Virginia Department of Transportation (VDOT) and the County Director of Planning, or his designee prior to the issuance of a land disturbing permit for the Facility. The CTMP shall identify all existing conditions and provide a plan to address all necessary repairs to public roads internal to the Norvalia subdivision required as a result of damage from construction traffic and provide a timeline for completion of repairs. All road repairs as identified by the approved CTMP as determined by VDOT shall be completed within six (6) months of the Facility commencing operations.
5. Vehicular Access. Vehicular access to and from the Facility and the Properties, which includes traffic associated with the construction, operation, maintenance and decommissioning period of the Facility shall only be through Old Church Road which connects with Norge Farm Lane through properties currently owned by the Owner and designated as “Parcel 1” and “Parcel 2” on the above-referenced plat of survey and a parcel identified as James City County Real Estate Tax Map Parcel No. 2320100052A.
6. Archaeology. A Phase I Archaeological Study for the Properties shall be approved by the Director of Planning prior to issuance of a land disturbing permit for the Facility. A treatment plan shall be submitted to and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning

and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the Properties and the clearing, grading or construction activities thereon. This condition shall be interpreted in accordance with the County's Archaeological Policy adopted by the County on September 22, 1998.

7. Natural Heritage Resource. A natural resource inventory of suitable habitats for S1, S2, S3, G1, G2 or G3 resources in the project areas shall be approved by the Director of Planning prior to issuance of a land disturbing permit. If the inventory confirms that a natural heritage resource either exists or could be supported by a portion of the Properties where the Facility is located, a Conservation Management Plan (CMP) shall be approved by the Director of Planning for the affected area prior to issuance of a land disturbing permit. All inventories and CMPs shall meet the standards of the Virginia Department of Conservation and Recreation's Division of Natural Heritage ("DCR/DNH") for preparing such plans, and shall be conducted under the supervision of a qualified biologist as determined by DCR/DNH or the United States Fish and Wildlife Service. All approved CMPs shall be incorporated into the plan of development for the Properties, and the clearing, grading, or construction activities thereon, to the maximum extent possible. Upon approval by the Director of Planning, a mitigation plan may be submitted for the incorporation of the CMP into the plan of development for the Properties.
8. Vegetated Buffer. Prior to final approval of any site plan, the Director of Planning or his designee shall review and approve a landscape plan for the Facility. The landscape plan shall provide a 50-foot-vegetated buffer along the perimeter of the Properties. The perimeter buffer shall be provided by one of the three treatment options listed below:
  - In areas of the 50-foot perimeter buffer that are currently comprised of mature forest, as determined by the Director of Planning or his designee, the buffer shall be left undisturbed in its natural state.
  - In areas of the 50-foot-perimeter buffer that are not completely comprised of mature forest, as determined by the Director of Planning or his designee, supplementation with evergreen shrubs and trees shall be required.
  - In areas of the 50-foot-perimeter buffer where little or no vegetation exists, as determined by the Director of Planning or his designee, the buffer shall be landscaped to the provisions of Section 24-96 of the Zoning Ordinance for

General Landscape Areas except that the required evergreen tree and shrub mixture shall be increased from 35% to at least 50%.

9. Lighting. Prior to final approval of any site plan, the Director of Planning, or his designee, shall review and approve a lighting plan for the Facility. Any exterior site or building lighting shall be shielded and directed downward. No glare, defined as 0.1 foot-candle or higher, shall extend outside the boundaries of the Properties. Lights shall be operated by a motion detector or be able to be turned on as needed by the Facility operator and shall not be routinely illuminated at night. All light poles shall not exceed 16 feet in height from finished grade unless otherwise approved by the Director of Planning prior to final site plan approval.
10. Signage. Unless otherwise exempt by Section 24-74 of the Zoning Ordinance, no outdoor signage related to the Facility shall be permitted on the Properties.
11. Fencing. Prior to final approval of any site plan, the Director of Planning or his designee shall review and approve a detail of any proposed fencing for the Facility. The fence shall be black, or other neutral color, and shall not exceed a height of eight feet above finished grade. The fence shall not contain barbed wire unless it is required by federal or state regulations.
12. Emergency Management Plan. The Facility operator shall prepare and maintain an Emergency Management Plan (EMP) to address situations that may require response from James City County public safety personnel, including, without limitation, fire safety and emergency response personnel. The EMP shall:
  - Be developed in conjunction with and approved by the County Fire Chief and County Police Chief or their designees prior to final approval of any site plan.
  - Provide a mutually agreed upon schedule for the Facility operator to provide information sessions and training for James City County public safety personnel relative to possible emergency response situations at the Facility.
  - Provide pertinent contact numbers for the Facility operator emergency personnel.
  - Provide that all emergency contact information will be posted on access gates.
13. Construction Management and Mitigation Plan. Prior to final approval of any site plan, the Director of Planning or his designee shall approve a Construction Management and Mitigation Plan (CMMP). The CMMP shall include those items listed below:
  - a. Construction Management:
    - Designated parking areas.
    - All piling driving activity on the Properties be limited to the hours of 8 a.m. to 6 p.m., Monday through Friday.

- Other construction activities, including clearing and grading of the Properties shall be limited to the hours of 7 a.m. to 7 p.m., Monday through Friday.
  - Construction delivery traffic to the Properties shall not be allowed during pick-up/drop-off times for surrounding schools.
  - Storage, transportation and disposal of any waste and/or hazardous materials.
- b. Construction Mitigation:
- Dust mitigation, such as water trucks, mulch or similar methods.
  - Smoke and burn mitigation, such as containments or similar methods.
  - Visual and noise mitigation, such as fences, landscaping or similar methods.
14. Spill Prevention Control and Countermeasure Plan. Prior to issuance of a land disturbing permit, the Director of Stormwater and Resource Protection, or his designee, shall approve a Spill Prevention Control and Countermeasure (SPCC) Plan for the Facility. The SPCC shall outline measures and procedures necessary for the operation of the Facility until decommission.
15. Decommissioning and Restoration Plan. Prior to final approval of any site plan, the Director of Planning, or his designee, shall approve a Decommissioning and Restoration Plan (DRP). The DRP shall outline the required steps for removal of above- and below-ground Facility components, disposal of and/or recycling of wastes and materials and the restoration of the Properties to pre-construction conditions. The DRP shall address abandonment of operations and the possible failure of the Facility operator to comply with the decommissioning process and provide an estimated cost associated with the decommissioning and restoration activities. To ensure sufficient funds are available to the County to conduct the DRP should the owner fail to perform its obligation under this condition, a surety shall be posted with James City County in a form acceptable to the County Attorney, in an amount sufficient for the removal and disposal of all the power generating equipment, inverters, fencing, wiring and any other ancillary materials and equipment associated with the Facility.
16. Off-Site Parking. Prior to final approval of a site plan, the Director of Planning, or his designee, shall approve an Off-Site Parking Plan (OPP). The off-site parking area shall be used by construction workers who shall be transported to the Properties via a shuttle van and/or bus. The OPP shall conform to all Zoning Ordinance requirements and shall identify elements such as, but not limited to, the number of off-site parking spaces provided and the location of the off-site parking area. In order to reduce the amount of construction related traffic during the construction period at Norvalia neighborhood and to ensure that construction workers are parking their vehicles at the off-site parking area, no more than 20 vehicles may be parked on the Properties at any time, except for trucks, as defined by the Zoning Ordinance and delivery vehicles. No on-street parking shall be allowed.

- 17. Commencement. The Facility shall be operational within 48 months from the issuance of this SUP or this SUP shall become void. The Facility operator shall submit a certified letter to the Director of Planning to confirm the operational status of the Facility.
- 18. Height Limitation. With the exception of distribution poles and overhead wiring, as permitted by the Zoning Ordinance, the maximum height of all structures in the Facility, including the photovoltaic solar panel mounts shall not exceed 16 feet above finished grade.
- 19. Underground Wires. All electrical wiring used in the Facility shall be located underground, except where wiring is necessary to connect the Facility to the exiting overhead utility line.
- 20. Glare. All photovoltaic solar panels shall be made of or coated with anti-reflective materials to prevent glare.
- 21. Severance Clause. This SUP is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

---

Chairman, Board of Supervisors

ATTEST:

VOTES

AYE    NAY    ABSTAIN

MCGLENNON	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
ICENHOUR	_____	_____	_____

\_\_\_\_\_  
 William C. Porter  
 Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January, 2018.

SUP28-16SGenNorge-res

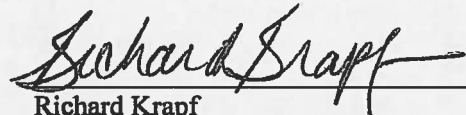
## RESOLUTION

VIRGINIA CODE § 15.2-2232 ACTION ON CASE NO. SUP-0028-2016.

### SOLAR ELECTRICAL GENERATION FACILITY AT NORGE

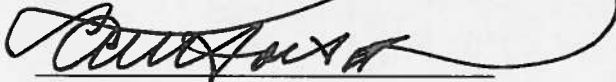
- WHEREAS, in accordance with Virginia Code § 15.2-2232, a public utility facility, whether publicly or privately owned, shall not be constructed, established or authorized, unless and until the general location or approximate location, character and extent thereof has been submitted to and approved by the Planning Commission as being substantially in accord with the adopted Comprehensive Plan or part thereof; and
- WHEREAS, Whisper Ridge, LLC (the "Owner") owns properties located at 320, 339, 341 and 345 Farmville Lane, further identified as James City County Real Estate Tax Map Parcel Nos. 2320100052A, 2320100052G, 2320100052 and 2320100055 respectively, and other areas legally described and identified as: All those pieces or parcels of property situate, lying and being in James City County, Virginia, consisting of Parcels 1, 2, C, D, and I, comprising of 0.35 acre, 0.08 acre, 0.08 acre, 0.03 acre and 0.09 acre, respectively, all set as forth and shown on a certain plat of survey made by E. E. Paine, Inc., entitled "Plat of the Property of J. Guy and Christina M. Hughes" dated June 17, 1974, revised September 3, 1975, and recorded in the Office of the Clerk of the Circuit Court for the County of James City, Virginia, on November 24, 1975, in Plat Book 33 at Pages 23 and 24" (collectively, the "Properties"). The Properties are zoned A-1, General Agricultural and R-2, General Residential; and
- WHEREAS, Mr. Drew Gibbons of SunPower Devco, LLC, on behalf of the Owner, has applied for a Special Use Permit to allow for the construction of a solar electrical generation facility on the Properties as shown on a plan titled "Norge Solar Master Plan" dated October 4, 2017; and
- WHEREAS, in accordance with Virginia Code § 15.2-2204 and Section 24-9 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners notified and a hearing scheduled for Case No. SUP-0028-2016.
- NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby approve the general or approximate location, character and extent of the public utility facility shown in Case No. SUP-0028-2016 as being substantially in accord with the adopted Comprehensive Plan and applicable parts thereof.





Richard Krapf  
Chair, Planning Commission

ATTEST:



Paul D. Holt, III  
Secretary

Adopted by the Planning Commission of James City County, Virginia, this 6th day of  
December, 2017.

SUP28-16Solar2-res

**Unapproved Minutes of the December 6, 2017  
Planning Commission Meeting**

SUP-0028-2016. Solar Electrical Generation Facility at Norge

Mr. José Ribeiro, Senior Planner II, stated that at its April 5, 2017 meeting, the Commission recommended approval of this application by a vote of 5-2, with changes to SUP Condition No. 5, Vehicular Access. Mr. Ribeiro further stated that the Commission also approved, by a vote of 5-2, a resolution to find the proposal consistent with the Comprehensive Plan.

Mr. Ribeiro stated that since April, the applicant has requested that the Board of Supervisors defer consideration of this application to allow time to develop ways to further mitigate impacts associated with construction traffic and the feasibility of an alternative access to the site. Mr. Ribeiro stated that on October 10, 2017, the Board of Supervisors remanded this application back to the Planning Commission for its consideration at the December 6, 2017 meeting, due to substantive changes proposed by the applicant.

Mr. Ribeiro stated that the applicant is no longer proposing vehicular access to the site via Farmville Lane/Oslo Court but, instead, through Old Church Road. Mr. Ribeiro stated that that the proposed access route will accommodate all vehicular traffic during and after the construction period and that traffic through Old Church Road is expected to create less impact to the neighborhood than vehicular access through Farmville Lane, as previously proposed. Mr. Ribeiro stated that both VDOT and the Fire Department concur with the change. Mr. Ribeiro further stated that based on feedback received by citizens, the applicant has proposed to use an off-site parking lot location to accommodate parking for workers during the construction period of the project. Mr. Ribeiro stated that according to SunPower, the construction period is typically completed within nine months. Mr. Ribeiro noted that the peak volume of traffic and the number of construction workers visiting the site lasts between four and five months. Mr. Ribeiro stated that during the peak construction period it is expected that at any one time there could be 60 to 80 workers on-site. Mr. Ribeiro stated that SunPower anticipates that the proposed off-site parking area will accommodate up to 80 vehicles for their workforce during the construction period. Mr. Ribeiro stated that workers would be transported from the off-site parking lot location, to the construction site via a shuttle bus, thereby reducing the volume of construction related traffic created by private passenger vehicles. Mr. Ribeiro stated that after the construction period is over, the site will likely receive around four trips per day during normal operation. Mr. Ribeiro stated that staff has created a new SUP condition to address the proposed off-site parking.

Mr. Ribeiro stated that in addition to an SUP issued by the County this project will require an agreement with Dominion Energy to interconnect into the electrical power distribution network. Mr. Ribeiro stated that the applicant has submitted an interconnection request to Dominion Energy and expects to execute an interconnection agreement in early 2018. Mr. Ribeiro stated that the project also requires issuance of a Renewable Energy "Permit by Rule" by the Virginia Department of Environmental Quality (DEQ). Mr. Ribeiro stated that the applicant has initiated the "Permit by Rule" process with an initial notice of intent filing and pre-application meeting with DEQ.

Mr. Ribeiro stated that the land for the project will be leased and the lease term of the land agreement is 35 years which is the estimated operational life for this facility. Mr. Ribeiro stated that at the end of the project life cycle, SunPower will implement a decommissioning and restoration plan as outlined in the SUP conditions.

Mr. Ribeiro stated that Section 15.2-2232 of the Code of Virginia requires that unless a utility facility is shown on the adopted Comprehensive Plan or other master plan for the County, the local planning commission shall review the facility to determine whether the location, character and extent of the project is substantial in accord with the adopted Comprehensive Plan. Mr. Ribeiro stated that the proposed solar electrical generation facility is not currently shown on the County's adopted Comprehensive Plan, therefore, requires this additional level of review by the Planning Commission.

Mr. Ribeiro stated that staff finds the proposal to be compatible with surrounding zoning and development and that it is consistent with the Comprehensive Plan. Mr. Ribeiro stated that staff recommends the Commission recommend approval of this application to the Board of Supervisors subject to the attached conditions. Mr. Ribeiro further stated that staff recommends that the Commission find this application consistent with the Code of Virginia Section 15.2-2232.

Mr. Richardson inquired whether it was staff or the applicant that developed the proposal for the change in vehicular access.

Mr. Ribeiro stated that the change evolved as the applicant met with residents in Norvalia in response to citizen concerns over traffic impacts in the community.

Mr. Schmidt inquired about the additional parcels that would be included.

Mr. Ribeiro stated that there were five small parcels added to the application which will make up the private right-of-way access from the end of Church Lane.

Mr. Krapf called for disclosures from the Commission related to the current hearing.

There were no disclosures. Mr. Krapf opened the Public Hearing.

Mr. Peter Toomey, Senior Manager, Utility Origination, SunPower Corp, provided an overview of the project. Mr. Toomey noted that the existing Resource Protection Area serves to buffer the majority of the project. Mr. Toomey further noted that a 50 foot evergreen buffer would be installed where the property abuts the neighboring community.

Mr. Toomey confirmed the status of the various necessary permits.

Mr. Toomey provided a list of common questions related to solar installations which included concerns over property value, noise and glare. Mr. Toomey noted that similar projects have not affected property value. Mr. Toomey further noted that solar installations generate very little noise and that there would be no glare due to the nature of the panels.

Mr. Toomey stated that benefits of the project include minimal impact to the land, minimal impact to public services and the potential to attract businesses that seek to use solar power.

Mr. Toomey requested that the Commission support the application.

Mr. Richardson inquired about ownership of the existing fence line. Mr. Richardson further inquired if the Community is satisfied with the buffer plan.

Mr. Toomey stated that they have not received specific feedback on the buffer.

Mr. Dave Stoner, SunPower Corp, stated that the existing fence is on a neighboring parcel. Mr. Stoner stated that to buffer the project, in addition to filling in vegetation where necessary, there would be a fabric fence installed for additional screening.

Mr. Richardson inquired if the existing residential structure on the property would be demolished.

Mr. Toomey confirmed.

Mr. Schmidt noted that the property feeds into the Yarmouth Creek watershed and inquired if fertilizer would be used on the property to maintain the grassy areas.

Mr. Cory Howell, Kimley-Horn and Associates, Inc., stated that fertilizer would be used only to establish the initial vegetation.

Mr. Holt stated that SUP Condition No. 3 calls for a nutrient management plan to ensure compliance with best practices. Mr. Holt noted that the nutrient management plan will be reviewed by Stormwater and Resource Protection.

As no one else wished to speak, Mr. Krapf closed the Public Hearing.

Mr. Krapf opened the floor for discussion by the Commission.

Mr. Krapf noted that the Commission would need to vote separately on the resolution for consistency with the Comprehensive Plan and the SUP.

Mr. Haldeman made a motion to find the project in substantial accord with the Comprehensive Plan.

On a roll call vote the Commission voted to find the project consistent with the Comprehensive Plan (6-0).

Mr. Richardson stated that he appreciates the efforts of the applicant to find solutions to the community concerns.

Mr. Wright stated that he has concerns about the effect of the project on the Primary Service Area (PSA) as the properties fall within the PSA. Mr. Wright stated that by allowing this type of development which removes a substantial amount of land from the PSA which could be used for residential development, it could eventually put pressure on the County to extend the PSA.

Mr. Haldeman stated that he supports the application because it does make the property unavailable for residential development which would put more burden on the County's infrastructure and resources.

Mr. Schmidt noted that in addition to relieving the strain on County resources, it also drastically reduces the traffic impacts that residential development would have on the existing neighborhood. Mr. Schmidt stated that he will support the application.

Mr. Krapf stated that he appreciates the efforts of the applicant to resolve concerns over traffic. Mr. Krapf stated that he approves of the intent to remediate the property at the end of the project lifecycle. Mr. Krapf further stated that he finds the project to be in accord with both the Comprehensive Plan and the County's Strategic Plan.

Mr. Richardson made a motion to recommend approval of SUP-0028-2016 subject to the proposed SUP Conditions.

On a roll call vote, the Commission voted to recommend approval of SUP-0028-2016. Solar Electrical Generation Facility at Norge subject to the proposed Conditions (5-1).

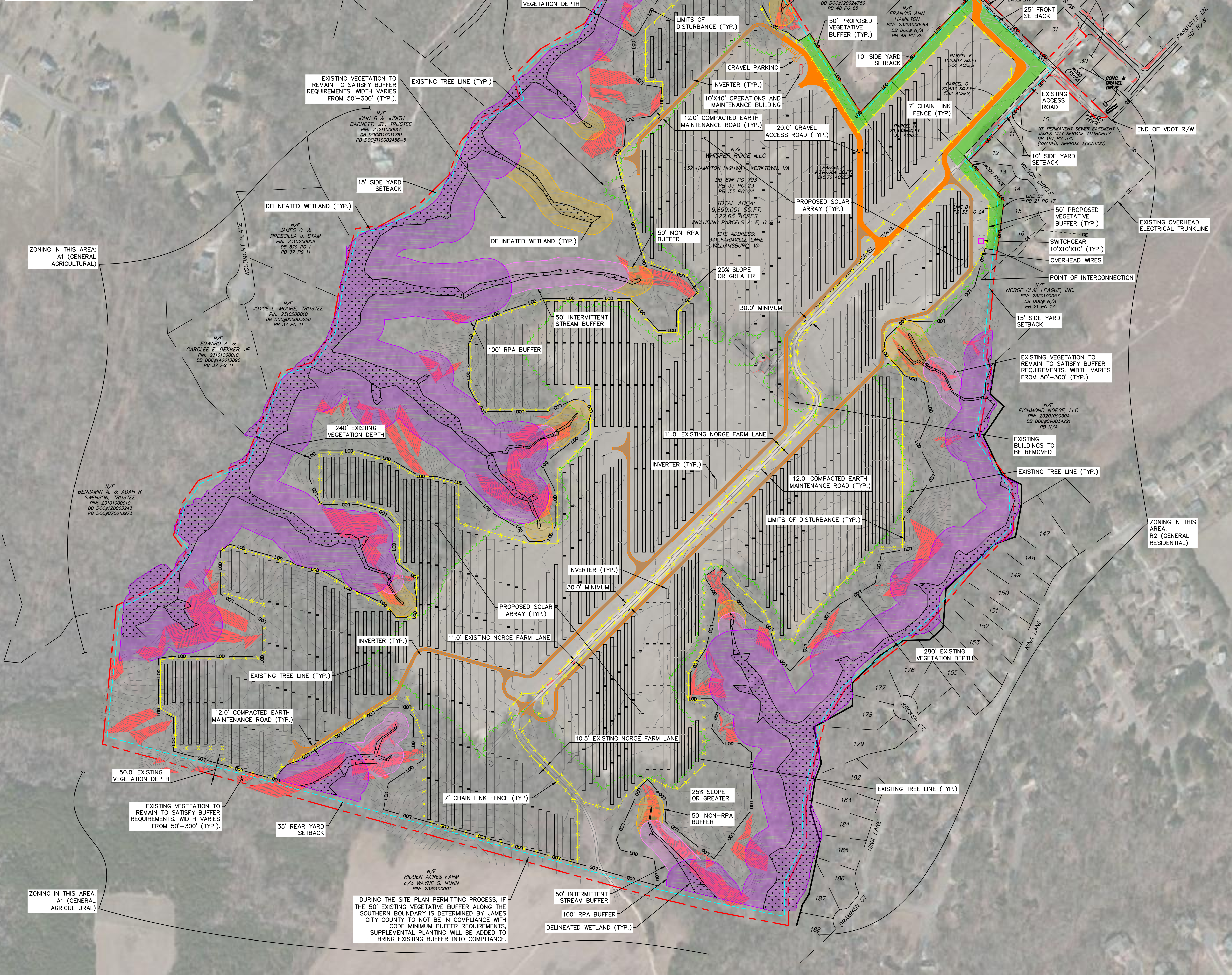
# JCC-SUP-0028-2016

## Solar Electrical Generation Facility at Norge



This document, together with the concepts and designs presented herein, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

**ELECTRICAL DISTRIBUTION SUMMARY:**  
 SOLAR POWER WILL BE COLLECTED BY THE SOLAR PANEL ARRAY AND CONVERTED TO ALTERNATING CURRENT VIA ON SITE INVERTERS. THE POWER WILL THEN BE CONVEYED UNDERGROUND TO A SWITCHGEAR. POWER WILL LEAVE THE SWITCHGEAR AND GO UP A POWER POLE PLACED BESIDE THE SWITCHGEAR WHERE THE POWER WILL INTERCONNECT VIA OVERHEAD WIRE TO AN EXISTING ELECTRICAL TRUNKLINE THAT RUNS ADJACENT TO THE EASTERN PROPERTY LINE. SUNPOWERS OWNERSHIP AND MAINTENANCE ENDS AT THE SWITCHGEAR.



**LEGEND:**

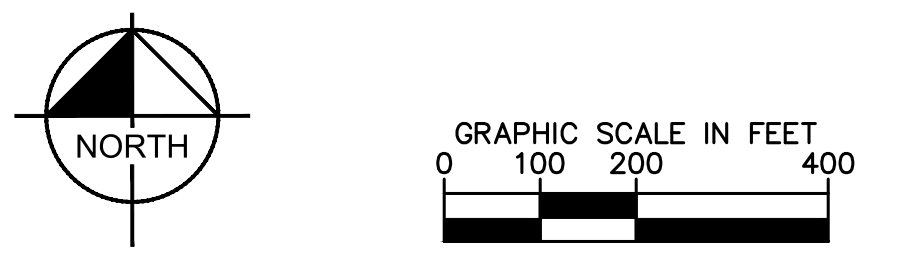
- 100' RPA BUFFER FROM FIELD WETLAND DELINEATION
- 50' INTERMITTENT STREAM BUFFER
- 50' NON-RPA BUFFER
- 25% SLOPES OR GREATER
- DELINEATED WETLANDS
- NEW VEGETATIVE LANDSCAPE BUFFER
- PROPERTY LINE
- SETBACK LINE
- EXISTING TREE LINE
- 7' CHAIN LINK FENCE
- 5' WOOD PRIVACY FENCE
- ACCESS ROAD
- LIMITS OF DISTURBANCE



**NARRATIVE OF PROPOSED USE:**  
 THE PROPOSED USE OF THE SITE IS A 20 MEGAWATT SOLAR POWER GENERATION FACILITY. THIS FACILITY INCLUDES A SOLAR PANEL ARRAY WITH INVERTERS AND ASSOCIATED ACCESS/MAINTENANCE ROADS ALL OF WHICH ARE ENCLOSED WITHIN A PERIMETER FENCE.

- SITE NOTES:**
1. SITE IS SITUATED IN SUBWATERSHEDS 103 AND 104 OF THE YARMOUTH CREEK WATERSHED (HUC JL28).
  2. RPA BUFFERS IN THIS MASTER PLAN ARE SHOWN 100' FROM FIELD DELINEATED EDGES OF PFO WETLAND WITH PERENNIAL STREAM BASED UPON FIELD DELINEATION COMPLETED BY KIMLEY-HORN.
  3. STORMWATER MANAGEMENT AND STORMWATER RUNOFF WILL MEET JAMES CITY COUNTY AND STATE NPDES STORMWATER PERMIT REQUIREMENTS BOTH DURING CONSTRUCTION AND OPERATION.
  4. CONTOURS SHOWN ARE AT 2' INTERVALS.
  5. THERE WILL BE NO DEVELOPMENT ON EXISTING SLOPES 25% OR GREATER WITHOUT A STEEP SLOPE WAIVER FROM JAMES CITY COUNTY.
  6. DISTURBED AREA: 137.33 AC
  7. PRE-DEVELOPMENT IMPERVIOUS AREA: 1.45 AC
  8. POST-DEVELOPMENT IMPERVIOUS AREA: 5.21 AC

SITE INFORMATION				
ADDRESS	341 FARMVILLE LANE, WILLIAMSBURG, VA			
PARCEL	1	2	3	4
APPROXIMATE ACREAGE	±215.70 AC	±5.34 AC	±1.62 AC	±0.88 AC
PARCEL ID NUMBER (PIN)	2320100052	2320100055	2320100052G	2320100052A
ZONING	A1 (GENERAL AGRICULTURAL)	R2 (GENERAL RESIDENTIAL)	R2 (GENERAL RESIDENTIAL)	R2 (GENERAL RESIDENTIAL)
R/W SETBACK	50'	25'	25'	25'
SIDE YARD SETBACK	15'	10'	10'	10'
REAR YARD SETBACK	35'	35'	35'	35'
LANDSCAPE BUFFER	50'	50'	50'	50'



**Kimley»Horn**

11815 FOUNTAIN WAY, SUITE 300, NEWPORT NEWS, VA 23606  
 PHONE: 757-213-8600  
 WWW.KIMLEY-HORN.COM

**PRELIMINARY**  
NOT FOR CONSTRUCTION

NO. \_\_\_\_\_

REVISIONS \_\_\_\_\_

DATE \_\_\_\_\_

KHA PROJECT 017261002

DATE 10/04/2017

SCALE AS SHOWN

DESIGNED BY C/H

DRAWN BY JCB

CHECKED BY C/H

**MASTER PLAN**

VA

**NORGE SOLAR**

JAMES CITY COUNTY

SHEET NUMBER

**EX1.0**



NORGE SOLAR FACILITY  
James City County Special Use Permit

December 21, 2016



Special Use Permit

For

Norge Solar Facility

341 Farmville Lane

Williamsburg, VA

Prepared By:

Kimley-Horn

11815 Fountain Way, Suite 300

Newport News, VA 23606

December 21, 2016

Kimley-Horn Project Number: 017261002

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## Section I – Project Description

### The Project

SunPower plans to construct and operate a photovoltaic solar electrical generation facility with a capacity up to 20 megawatts (MW) on a site of approximately 223 acres located in James City County, Virginia. When fully constructed the facility will supply approximately 4,000 Virginia households with clean, renewable energy. Upon completion, the project will include the following key components:

- Ground-mounted arrays of photovoltaic panels that are up to approximately 13 feet in height, arranged in rows, spaced approximately 15'-25' apart, and mounted on single-axis trackers;
- An enclosed switchgear facility with interconnection to Dominion's distribution network via generation tie lines and poles;
- Supervisory Control and Data Acquisition Facility Control Systems;
- Inverters, combiners, and transformers;
- Buried electrical conduits;
- Onsite unpaved access roads, consisting of 12-foot-wide interior perimeter access roads and 8- to 12-foot-wide interior access paths;
- Wildlife-compatible, chain link security fencing, up to 7 feet in height, located along the site perimeter;
- A 50' minimum existing or planted vegetative buffer to screen project from adjoining properties;
- A prefab container-sized O&M storage shed; and
- A gravel-surfaced access driveway fronting onto Oslo Court

Land for the project will be leased from an existing property owner, which is typical for this type of development and preferred by the landowners. Including extensions, the lease term of the land agreements is 35 years. This structure provides a mutually agreeable set of lease terms and a very stable and steady income for the landowner. A decommissioning plan will be implemented at the end of the project life, and is discussed in more detail below.

The subject property is located at 341 Farmville Lane in Williamsburg, Virginia. Three small parcels are currently zoned General Residential (R2) and one large parcel is currently zoned General Agricultural (A1). According to the James City County Zoning Ordinance, utility uses, to include electrical generation facilities (public or private) may be developed on land zoned R2 and A1 after obtaining a special use permit. On November 11, 2016, the James City County Zoning Administrator found the use proposed based on our conceptual plan (i.e., utility-scale solar farm) consistent with the Zoning Ordinance (i.e. electrical generation facilities).

Based on the proposed layout, approximately 153 acres of land will be disturbed as a part of this project.

### SunPower Background

Founded in 1985, SunPower is a U.S.-based company headquartered in San Jose, CA with regional offices across the country. For over 30 years SunPower has been leading global solar innovation. SunPower solar panels consistently deliver more energy and long-term peace of mind with the highest performing solar power systems available. SunPower is the solar energy choice of more homeowners and businesses around the world.

#### A Proven Track Record

- Diversified global portfolio leading residential, commercial and utility solar energy markets
- Over 2,600 MW of solar power plants deployed globally
- Total solar energy deployed > 7 GW, enough to power over 1 million homes
- Developed and constructed one of the world's largest PV plants (579 MW ac) — The Solar Star Projects in Los Angeles and Kern Counties, California, USA
- A 14 GW power plant pipeline attracting the world's most sophisticated utilities, investors and commercial organizations at the forefront of renewable energy

#### Industry-Leading Technology

- World's highest efficiency solar panels featuring SunPower Maxeon cell technology
- More than 600 patents
- Panel efficiency world record holder (22.4%) , with production panels exceeding 20%
- Panel useful life estimated to extend more than 40 years

#### Enduring Viability

- One of the most vertically integrated companies in the industry, guiding all aspects of the solar value chain from manufacturing to lifetime operations & maintenance
- Cumulative 5-year GAAP revenue of approximately \$12 billion; \$1.5 billion in 2015
- More than 6,000 people employed worldwide
- Publicly traded on the NASDAQ (SPWR) since 2005
- Majority-backed by Total S.A. (approximately 66% ownership), the fourth largest publicly traded, integrated international oil and gas company in the world

### Regulatory/Approval Processes

There are three main approvals required for this project:

1. Special Use Permit – James City County

SunPower is requesting approval for a special use permit from James City County for a site that has been carefully selected as suitable for this purpose.

2. Interconnection Agreement – Dominion Virginia Power

The project requires an agreement with Dominion Virginia Power (DVP) to interconnect into the electrical power distribution network. Independent transmission evaluations were conducted prior to selecting the site to confirm that the location was optimal for supplying power to the grid. SunPower submitted an interconnection request to DVP in March 2016 and expects to execute an interconnection agreement in early 2017.

3. Renewable Energy “Permit By Rule” – Commonwealth of Virginia

The Permit by Rule (PBR) review and approval process is administered by the Virginia Department of Environmental Quality (DEQ). In keeping with this process, the Norge Solar Facility will be meeting with the DEQ and the application will undergo review by numerous state agencies, including the Department of Game and Inland Fisheries (DGIF), the Department of Conservation and Recreation (DCR), the Department of Historic Resources (DCR) and Department of Mines Minerals and Energy (DMME) to ensure the project minimizes impacts to protected resources and complies with all requirements of the PBR. The Project has also performed wetlands studies to ensure compliance with US Army Corps of Engineers requirements. A number of environmental, historical/archaeological, and other studies have been or will be performed in support of these primary approvals and are described in more detail below.

### Decommissioning Plan

All landowners expect their land will be returned to the pre-existing conditions after the end of the project life. It is of utmost important to SunPower that these leases have decommissioning requirements with financial assurances to ensure that the land is returned to the owners in a responsible manner. The purpose of the Decommissioning Plan is to estimate the costs associated with decommissioning of the project at the end of operations and to ensure proper removal of all associated components of the project and restoration of the site to pre-existing conditions. A Decommissioning and Restoration Plan is included with this submittal.

### Benefits to James City County

The project will produce clean, emissions-free electricity to meet anticipated energy demands as well as state and/or federal renewable energy goals or requirements. The project also will help utilities meet state Renewable Portfolio Standards/Renewable Energy Standards.

Local project benefits include the creation of up to 80 jobs during peak construction, providing an economic benefit to the local economy and increasing sales tax revenues for James City County—all the

while, delivering enough clean electricity to power the equivalent of approximately 4,000 homes. One to two permanent jobs will be required to operate the facility after construction and additional contractor services will also be required periodically over the life of the project. SunPower will hold job fairs and conduct outreach to ensure hiring of locally skilled workers. Project development would also increase local business activity during construction and public tax revenue for James City County over the life of the project.

An independent economic consulting firm is conducting an economic impact analysis to assess the economic and fiscal contribution that the project will make to James City County. The final report will be included as an addendum to this application once completed.

### Section II – Traffic Impacts

The proposed solar power electrical generation facility will add only a negligible amount of additional traffic to the existing adjacent roadway infrastructure as the proposed use is a very low trip generator. The *James City County/Williamsburg/York County Comprehensive Transportation Study*, prepared by the Hampton Roads Transportation Planning Organization (HRTPO) in March of 2012, indicates that the segment of Richmond Road (U.S. Route 60) between Croaker Road (State Route 607) to the west and Lightfoot Road (State Route 646) to the east, experienced between LOS A and C in 2010 during the PM peak hour and is anticipated to experience between LOS A and C in 2034 during the PM peak hour. During operations the proposed solar power project will add a negligible amount of new traffic to the adjacent street network as traffic activity is limited to periodic maintenance vehicle activity during the week and throughout the month. LOS is based on the average delay experienced by all traffic using the intersection during the busiest (peak) 15-minute period. Generally, LOS A through LOS D are considered acceptable in urban areas. Therefore, the proposed project will not adversely impact either existing or anticipated future operational conditions along the Richmond Road corridor.

Although the site is relatively remote and well screened, we plan to keep construction work hours from 7AM to 7 PM to minimize disturbances during early morning and/or evening hours. SunPower estimates 7 – 10 trucks per day for material deliveries during peak construction and an additional 2 – 4 concrete trucks depending if there is any overlapping of activities. Heavy trucks for material deliveries do not operate during the entire construction duration of the project, only at peak times. SunPower estimates around 60 personal vehicles could also make daily trips to the site related to construction labor and management. We will work with JCC to best define appropriate construction delivery times in an effort to avoid conflicts with school buses on the surrounding residential streets during peak pickup and drop off times. Current pick up/drop off times for surrounding schools are below:

	Norge ES	Toano MS	Warhill HS
Pick Up	9:01 AM	6:34 AM	6:44 AM
Drop Off	4:21 PM	2:53 PM	2:49 PM

After construction, during normal operation and maintenance, the site will receive around 4 trips max per day. Normally 1 pick-up truck would visit the site per day but the site could see 2 – 4 more if utility workers are needed for major repair such as replacing an inverter.

### Section III – Water and Sewer Impacts

The proposed solar power electrical generation facility will not require water or sewer service during construction or during regular operation.

A relatively small amount of water will be used during construction. Water is typically needed for dust control during construction, but given the wet climate and soils at the site, dust should not be a construction issue. Water will be needed on site for compaction purposes but will be very limited and can be brought on site via truck. SunPower can provide an actual estimate during the site plan permitting phase once we've conducted a geotech study.

Due to the site's location, monthly rainfall is typically expected and cleaning of panels during the operation and maintenance phase will be minimal as the rainfall will naturally remove dust that collects on the panels. SunPower estimates that the panels will require cleaning twice a year at most. Operations and maintenance cleaning systems functioning twice a year will use approximately 13,000 gallons of clean water annually. This relatively small amount of water can be transported on site via truck.

### Section IV – Conceptual Stormwater Management Plan

New construction will require an analysis of stormwater quality and quantity per the 2014 Virginia Department of Environmental Quality Regulations and adherence to any other applicable local and state regulations. The project is required to meet Part IIB of the Commonwealth of Virginia's stormwater management requirements and will be considered a redevelopment project.

The existing condition of the 223 acre project site of which approximately 153 acres will be disturbed during construction. Currently, the site has about 1.6 acres of impervious cover including an access road and a small grouping of farm houses. Much of the site has been used as cultivated farm land and is classified as managed turf. In these predevelopment conditions, the runoff curve number for the site is about 70.93, assuming Type C soils.

In proposed conditions, there is about 3.92 acres of impervious cover which include new access roads and equipment pads. The solar panel array functions as a pervious surface, due to the spacing between rows of panels, the angle of the panels and the underlying vegetative surface. The system is relatively low impact and allows stormwater to infiltrate at the same rate, if not faster than in the existing conditions. The ground below the solar panels will be seeded with a low maintenance meadow seed mix. It is important to note that changing the ground cover conditions from cultivated farm land to a meadow reduces the overall runoff from the site, improves the water quality and prevents erosion. The runoff curve number for the proposed development is 74.61, assuming Type C soils.

DRAINAGE AREA SUMMARY						
	TOTAL AREA (AC.)	IMPERVIOUS AREA (AC.)	MANAGED TURF AREA (AC.)	FOREST/ OPEN SPACE AREA (AC.)	C	CN
Pre Development	153.44	1.60	24.44	127.40	70.93	0.11
Post Development	153.44	3.92	149.52	0.00	74.61	0.36

DEQ Virginia Runoff Reduction Method (VRMM) stormwater quality calculations were performed for the site and are presented in Appendix B. The calculations show that converting the farm land to open space provided more than adequate pollutant removal; an extra 34 pound of phosphorous is being removed per year and can be used to help the county meet its TMDL goals. The supporting calculations have been attached to Appendix B.

### Section V – Adequate Public Facilities

It was determined through conversations with staff that an adequate public facilities report is not required for this SUP application. The project is not a residential development, and because the proposed solar power electrical generation facility will not provide for any additional population growth and minimal permanent employment positions, the project will not result in additional traffic being added to and/or impacting the adjacent roadways and intersections.

### Section VI – Historic and Archeological Study

According to the GIS data provided by the Virginia Department of Historic Resources, the site is not within a historically protected district. Therefore, a Phase 1A Historic and Archeological study is not required. See the attached exhibit in Appendix C. However, as a part of the Renewable Energy “Permit By Rule” through the Commonwealth of Virginia, Applicant will perform historical and archaeological studies and the Department of Historic Resources (DCR) will review the site and surrounding areas to ensure historical and archeological significant areas are not affected from this development.

### Section VII – Environmental Inventory

An environmental analysis was performed on site to ensure that the proposed development is feasible and does not provide significant adverse environmental impacts.

#### Wetlands and Waters

County GIS data and USGS topographic mapping was used to identify the location of surrounding bodies of water. The site is located in the Yarmouth Creek watershed. Wetlands and Waters of the U.S. (WOUS) were delineated in accordance with the methods outlined in the *U.S. Army Corps of Engineers (USACE) 1987 Wetland Delineation Manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0)*. The



project area consists of agricultural fields within the central portion of the site and wooded areas surrounding the agricultural fields. Unnamed tributaries that flow to Cranstons Pond (which flows to Yarmouth Creek) bound the property to the west, south and east. Forested wetlands systems are associated with these tributaries in areas. A field perennality determination was conducted using the James City County (JCC) Perennial Stream Protocol Guidance Manual and portions of the tributaries were determined to be perennial. Perennial streams and wetlands which are contiguous and connected by surface flow to these perennial streams were identified as Resource Protection Areas and are subject to a 100-ft Resource Protection Area (RPA) buffer. The dominate tree species in the upland areas consist of beech (*Fagus grandifolia*), tulip poplar (*Liriodendron tulipifera*), red maple (*Acer rubrum*), white oak (*Quercus alba*), red oak (*Quercus falcata*), and holly (*Ilex opaca*). The wetlands occur in low lying ravines and are associated with streams. Common vegetation along the boundary and upper limits of the wetlands included holly (*Ilex opaca*), sycamore (*Platanus occidentalis*), ironwood (*Carpinus caroliniana*), highbush blueberry (*Vaccinium corymbosum*), Christmas fern (*Polystichum acrostichoides*), and Japanese stiltgrass (*Microstegium vimineum*). Lizard's tail (*Saururus cernuus*) was observed adjacent to streams within the wider wetland areas. No isolated wetlands or vernal pool type systems were identified within the delineation limits. Based on the delineation, the RPA buffers and associated wetlands do not conflict with the proposed limits of disturbance. An exhibit depicting the wetlands delineation, the RPA buffer, and the surrounding WOUS can be found in Appendix D.

#### Threatened and Endanger Species

Kimley-Horn conducted a preliminary review readily available database and agency information regarding potential occurrences of federal and state listed threatened and endangered (T&E) species within the proposed project limits or a 2-mile radius of the proposed project area. The review consisted of obtaining an Official Species list from the US Fish and Wildlife Service (USFWS) Official Species List, reviewing the Department of Game and Inland Fisheries (DGIF) Virginia Fish and Wildlife Information Service (VaFWIS) and Wildlife Environmental Review Map Service (WERMS), and submittal of the project area to the Department of Conservation and Recreation (DCR) Division of Natural Heritage (DNH).

*USFWS* - The USFWS Official Species List, dated September 19, 2016, documented Small Whorled pogonia (*Istotria medeoloides*) and Northern long-eared Bat (*Myotis septentrionalis*) as potentially occurring within the vicinity of the proposed project.

*DGIF* – The DGIF VaFWIS and WERMS databases did not identify any known occurrences of federal or state listed threatened or endangered species within the project limits (accessed September 19, 2016, November 2 and 3, 2016). The databases documented one known occurrence of the tri-colored Bat (*Perimyotis subflavus*) within the 2-mile radius of the project area. This species is state listed as endangered. The documented occurrence is located to the south of the proposed project site in the vicinity of Deer Lake to the north of Kolly Pond Road. DGIF's Little Brown Bat (MYLU) and Tri-colored Bat (PESU) Winter Habitat and Roosts Application did not identify hibernaculum within 0.25 mile of the proposed project nor known roost trees within 150 feet of the proposed project (accessed September 19, 2016 and November 3, 2016). DGIF's Northern Long-Eared Bat (NLEB) Winter Habitat and Roost Trees Application was also reviewed to identify winter habitat within 0.25 mile of the proposed project

or known maternity roost trees within 150 feet of the proposed project (accessed September 19, 2016 and November 3, 2016). No known NLEB winter hibernaculum or maternity roost trees were identified within the proposed project area or referenced ranges.

DCR – Based on DCR's comments received on October 18, 2016, natural heritage resources were not depicted within the project area but are located within a 2-mile radius of the proposed project area:

Lightfoot Conservation Site (Site ID 2121) – this site is located  $\pm 0.8$  mile to the south of the proposed site. This conservation site has been assigned a biodiversity ranking of B3 which represents a site of high significance. The resource of concern at the site is small whorled pogonia (*Isotria medeoloides*, G2/S2/LT/LE). Small whorled pogonia is federally listed as threatened and state listed as endangered. The DCR comments describe small whorled pogonia as a perennial orchid that grows in a variety of woodland habitats but tend to prefer mid-aged woodland habitats on gently north or northeast facing slopes, often within small draws. Threats to this species include direct destruction, habitat loss, and habitat alteration. A habitat assessment for small whorled pogonia (*Isotria medeoloides*) will be performed to identify suitable habitat on the project site. If suitable habitat is identified a survey will be conducted within the survey window.

Yarmouth Creek Conservation Site (G3G4/S3S4/NL/NL) – This site is identified as an Arrow-Arum-Pickerelweed tidal freshwater marsh and has a biodiversity significance ranking of B2, which represents very high significance. These communities occur in low lying marsh with much substrates of varying depths with long periods of tidal flooding. To minimize adverse impacts to this conservation site, the project will have strict adherence to state and local erosion and sediment control/stormwater management laws and regulations.

### Floodplain

The Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map depicts the proposed project site as within Zone "X", outside the 0.2% annual chance floodplain. An exhibit has been provided in Appendix D.

### Topography and Soils

County GIS was also used to examine the existing topography of the site. The area where the proposed solar power electrical generation facility will be located is relatively flat. However, the slopes increase dramatically (over 25%) at the field delineated RPA buffers, leading to the streams to the east and west of the proposed site location. A topographic exhibit has been attached in Appendix D. According to the USDA soil survey, the site soils are predominately a mix of Craven-Uchee complex, Emporia complex, and Kempsville-Emporia fine sandy loams. These soils are well drained with moderate permeability, and the hazard of erosion is slight. The USDA soils report has been provided in Appendix D.

### Section VIII – Perimeter Buffers

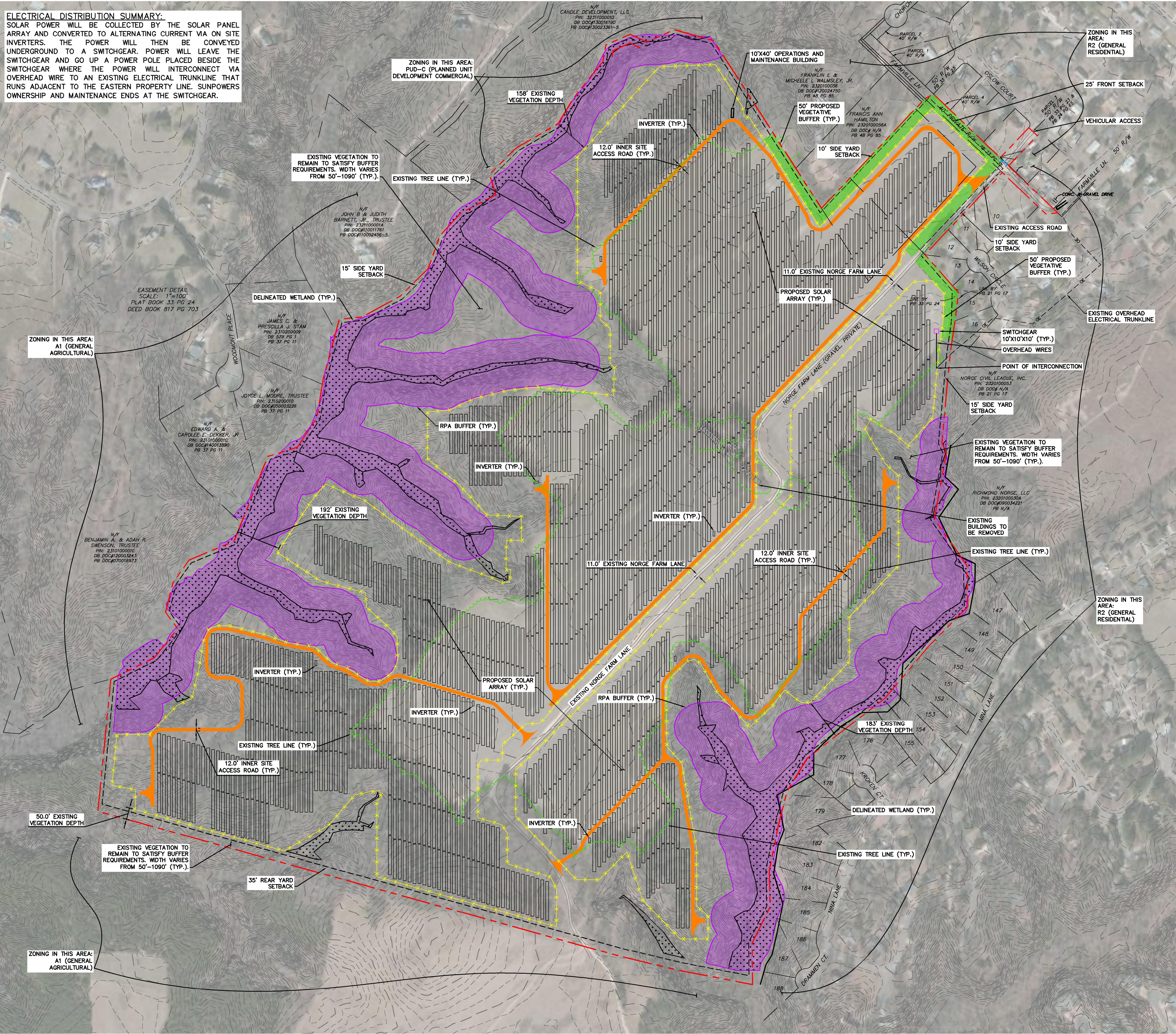
The majority of the site is bounded by existing, vegetated RPA-buffered features as shown on the Master Plan. Based upon James City County, State, and Federal environmental regulations, these RPA buffer and steep slope areas will not be cleared or disturbed as part of construction. Therefore, significant

buffers composed of existing plant material will remain present and will provide from approximately 50-ft to more than 1,000-ft of buffering from the majority of the surrounding properties as shown on the Master Plan. For areas along the north and northeast sides of the project area where agricultural fields border existing residential properties and limited existing buffer vegetation is present, a planted buffer of 50-ft is proposed as shown conceptually on the Master Plan. For this proposed buffer area, plantings composed predominantly of evergreen plant material are planned so that a continuous screen can be provided.

Appendix A – Master Plan and Supplemental Exhibits

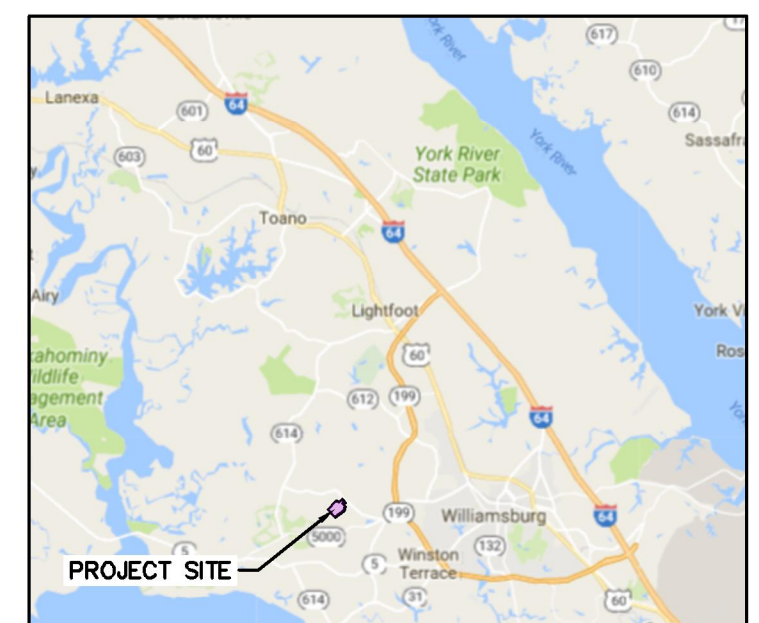
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**ELECTRICAL DISTRIBUTION SUMMARY:**  
 SOLAR POWER WILL BE COLLECTED BY THE SOLAR PANEL ARRAY AND CONVERTED TO ALTERNATING CURRENT VIA ON SITE INVERTERS. THE POWER WILL THEN BE CONVEYED UNDERGROUND TO A SWITCHGEAR. POWER WILL LEAVE THE SWITCHGEAR AND GO UP A POWER POLE PLACED BESIDE THE SWITCHGEAR WHERE THE POWER WILL INTERCONNECT VIA OVERHEAD WIRE TO AN EXISTING ELECTRICAL TRUNKLINE THAT RUNS ADJACENT TO THE EASTERN PROPERTY LINE. SUNPOWERS OWNERSHIP AND MAINTENANCE ENDS AT THE SWITCHGEAR.



**LEGEND:**

- RPA BUFFER FROM FIELD WETLAND DELINEATION
- DELINEATED WETLANDS
- NEW VEGETATIVE LANDSCAPE BUFFER
- PROPERTY LINE
- SETBACK LINE
- VEGETATIVE BUFFER
- EXISTING TREE LINE
- CHAIN LINK FENCE
- ACCESS ROAD



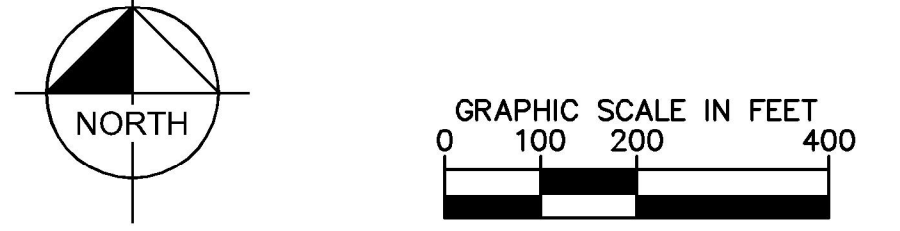
VICINITY MAP

**NARRATIVE OF PROPOSED USE:**  
 THE PROPOSED USE OF THE SITE IS A 20 MEGAWATT SOLAR POWER GENERATION FACILITY. THIS FACILITY INCLUDES A SOLAR PANEL ARRAY WITH INVERTERS AND ASSOCIATED ACCESS/MAINTENANCE ROADS ALL OF WHICH ARE ENCLOSED WITHIN A PERIMETER FENCE.

- SITE NOTES:**
- SITE IS SITUATED IN SUBWATERSHEDS 103 AND 104 OF THE YARMOUTH CREEK WATERSHED (HUC JL28).
  - RPA BUFFERS IN THIS MASTER PLAN ARE SHOWN 100' FROM FIELD DELINEATED EDGES OF PFO WETLAND WITH PERENNIAL STREAM. BASED UPON FIELD DELINEATION COMPLETED BY KIMLEY-HORN.
  - STORMWATER MANAGEMENT AND STORMWATER RUNOFF WILL MEET JAMES CITY COUNTY AND STATE NPDES STORMWATER PERMIT REQUIREMENTS BOTH DURING CONSTRUCTION AND OPERATION.
  - CONTOURS SHOWN ARE AT 2' INTERVALS.
  - THERE WILL BE NO DEVELOPMENT ON EXISTING SLOPES 25% OR GREATER.
  - DISTURBED AREA: 153.44 AC
  - IMPERVIOUS AREA: 3.92 AC

**SITE INFORMATION**

ADDRESS	341 FARMVILLE LANE, WILLIAMSBURG, VA			
PARCEL	1	2	3	4
APPROXIMATE ACREAGE	±215.70 AC	±5.34 AC	±1.62 AC	±0.88 AC
PARCEL ID NUMBER (PIN)	2320100052	2320100055	2320100052G	2320100052A
ZONING	A1 (GENERAL AGRICULTURAL)	R2 (GENERAL RESIDENTIAL)	R2 (GENERAL RESIDENTIAL)	R2 (GENERAL RESIDENTIAL)
R/W SETBACK	50'	25'	25'	25'
SIDE YARD SETBACK	15'	10'	10'	10'
REAR YARD SETBACK	35'	35'	35'	35'
LANDSCAPE BUFFER	50'	50'	50'	50'



**Kimley»Horn**  
 11815 FOUNTAIN WAY, SUITE 300, NEWPORT NEWS, VA 23606  
 PHONE: 757-213-8600  
 WWW.KIMLEY-HORN.COM

**PRELIMINARY**  
 NOT FOR CONSTRUCTION

KHA PROJECT	017261002
DATE	12/21/2016
SCALE	AS SHOWN
DESIGNED BY	CJH
DRAWN BY	UCB
CHECKED BY	CJH

**MASTER PLAN**

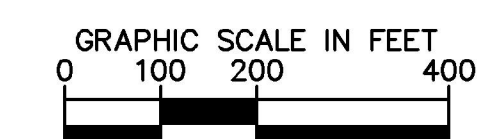
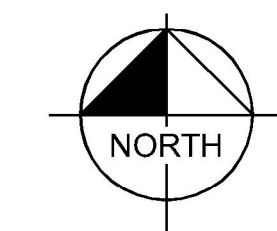
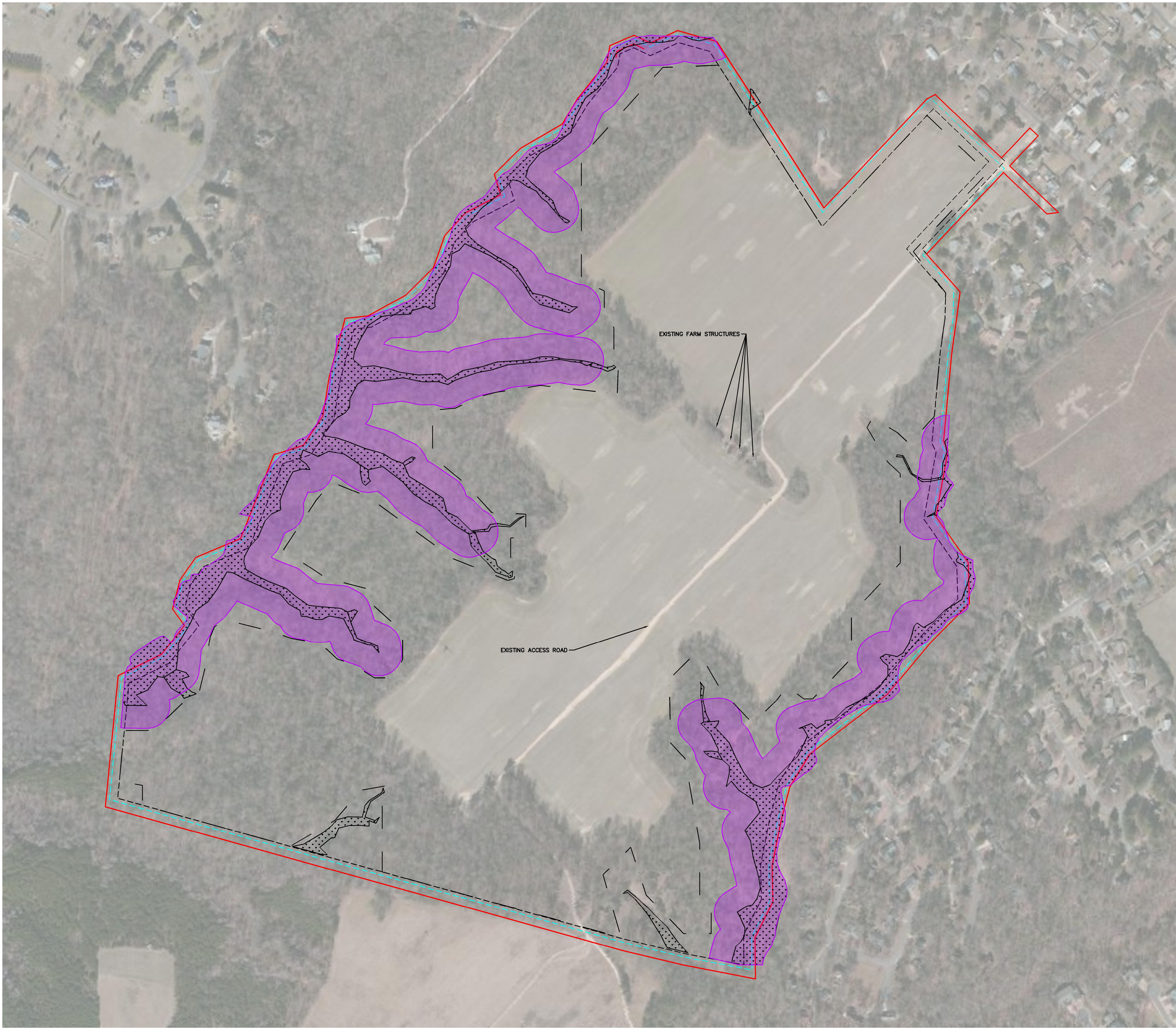
**NORGE SOLAR**

JAMES CITY COUNTY VA

SHEET NUMBER **EX1.0**

Appendix B – Conceptual Stormwater Calculations and Exhibit

This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.



**LEGEND:**

- RPA BUFFER FROM FIELD WETLAND DELINEATION
- DELINEATED WETLANDS
- PROPERTY LINE
- SETBACK LINE
- VEGETATIVE BUFFER
- LIMITS OF DISTURBANCE

DISTURBED AREA: 153.44 ACRES  
 IMPERVIOUS COVER: 3.92 ACRES (1.04%)  
 EXISTING CN: 70.93

No.	REVISIONS	DATE	BY

**Kimley»Horn**  
 11815 FOUNTAIN WAY, SUITE 300, NEWPORT NEWS, VA 23606  
 PHONE: 757-213-8600  
 WWW.KIMLEY-HORN.COM

**PRELIMINARY**  
 NOT FOR CONSTRUCTION

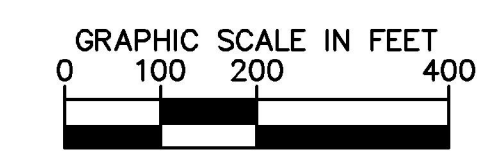
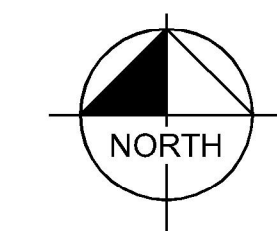
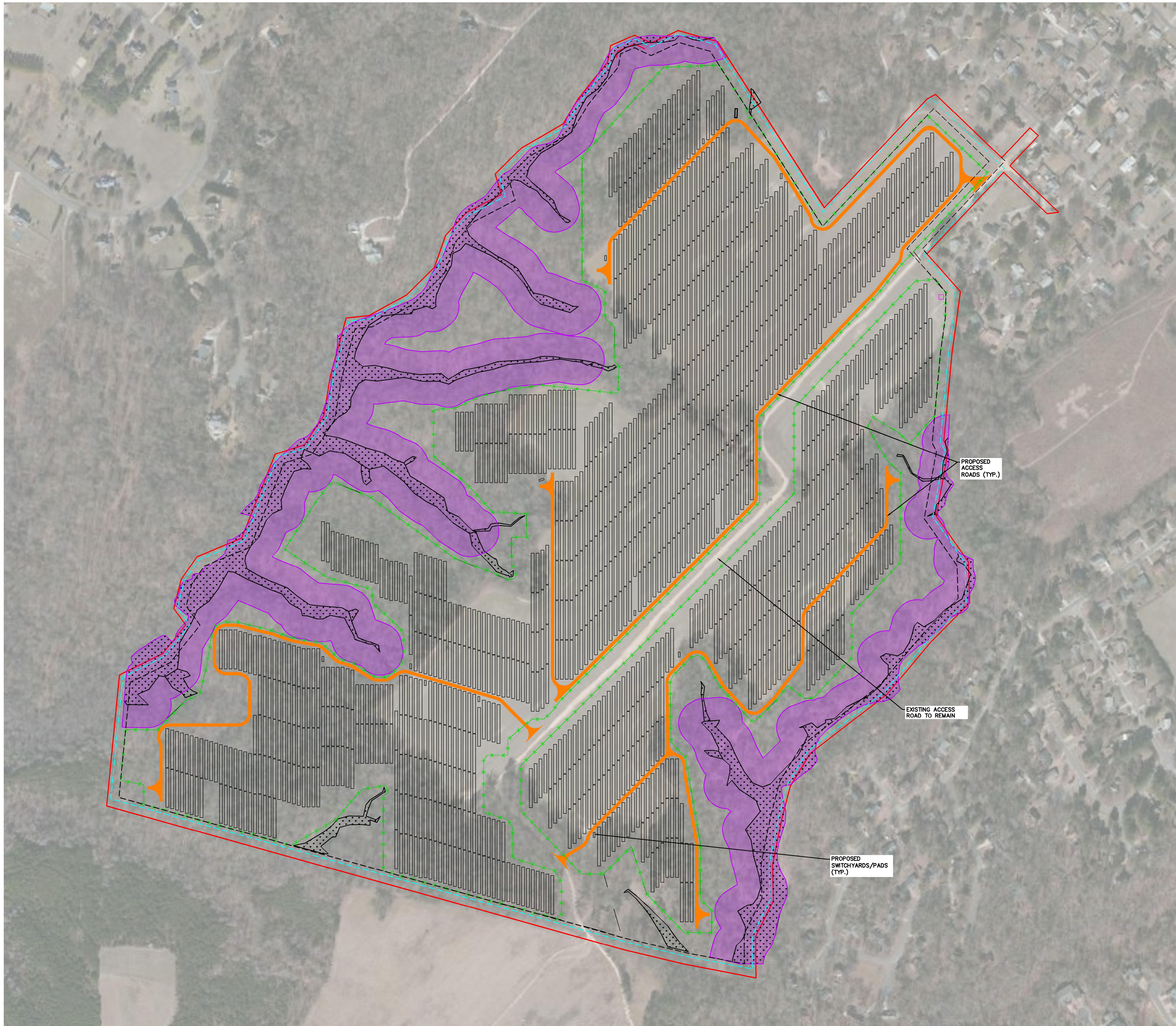
KHA PROJECT	017261002
DATE	12/19/2016
SCALE	AS SHOWN
DESIGNED BY	CJH
DRAWN BY	JCB
CHECKED BY	CJH

**PRE-DEVELOPMENT  
 STORMWATER PLAN**

**NORGE SOLAR**  
 JAMES CITY COUNTY VA

SHEET NUMBER

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**LEGEND:**

	RPA BUFFER FROM FIELD WETLAND DELINEATION
	DELINEATED WETLANDS
	PROPERTY LINE
	SETBACK LINE
	VEGETATIVE BUFFER
	CHAIN LINK FENCE
	LIMITS OF DISTURBANCE

DISTURBED AREA: 153.44 ACRES  
 IMPERVIOUS COVER: 3.92 ACRES (2.55%)  
 EXISTING CN: 74.61

	11815 FOUNTAIN WAY, SUITE 300, NEWPORT NEWS, VA 23606 PHONE: 757-213-8600 WWW.KIMLEY-HORN.COM	
	<b>PRELIMINARY</b> NOT FOR CONSTRUCTION	REVISIONS No. _____ DATE _____ BY _____
	KHA PROJECT: 017261002 DATE: 12/19/2016 SCALE: AS SHOWN DESIGNED BY: CJH DRAWN BY: JCB CHECKED BY: CJH	<b>POST-DEVELOPEMENT                  STORMWATER PLAN</b>
NORGE SOLAR	JAMES CITY COUNTY VA	SHEET NUMBER <b>EX1.0</b>



DEQ Virginia Runoff Reduction Method Re-Development Compliance Spreadsheet - Version 3.0

BMP Design Specifications List: 2013 Draft Stds & Specs

Site Summary

Total Rainfall (in):	43
Total Disturbed Acreage:	153.44

Site Land Cover Summary

Pre-ReDevelopment Land Cover (acres)

	A soils	B Soils	C Soils	D Soils	Totals	% of Total
Forest/Open (acres)	0.00	0.00	127.40	0.00	127.40	83
Managed Turf (acres)	0.00	0.00	24.44	0.00	24.44	16
Impervious Cover (acres)	0.00	0.00	1.60	0.00	1.60	1
					153.44	100

Post-ReDevelopment Land Cover (acres)

	A soils	B Soils	C Soils	D Soils	Totals	% of Total
Forest/Open (acres)	0.00	0.00	0.00	0.00	0.00	0
Managed Turf (acres)	0.00	0.00	149.52	0.00	149.52	97
Impervious Cover (acres)	0.00	0.00	3.92	0.00	3.92	3
					153.44	100

Site Tv and Land Cover Nutrient Loads

	Final Post-Development (Post-ReDevelopment & New Impervious)	Post- ReDevelopment	Post- Development (New Impervious)	Adjusted Pre- ReDevelopment
Site Rv	0.24	0.23	0.95	0.08
Treatment Volume (ft <sup>3</sup> )	132,925	124,924	8,001	43,197
TP Load (lb/yr)	83.52	78.49	5.03	27.14

Baseline TP Load (lb/yr): 61.9592\* *\*Reduction below new development load limitation not required*

Pre- ReDevelopment TP Load per acre (lb/acre/yr)	Final Post-Development TP Load per acre (lb/acre/yr)	Post-ReDevelopment TP Load per acre (lb/acre/yr)
0.18	0.54	0.52

Total TP Load Reduction Required (lb/yr)	20.61	16.53	4.08
--	-------	-------	------

	Final Post-Development Load (Post-ReDevelopment & New Impervious)	Pre- ReDevelopment
TN Load (lb/yr)	597.46	195.67

DEQ Virginia Runoff Reduction Method Re-Development Compliance Spreadsheet - Version 3.0

BMP Design Specifications List: 2013 Draft Stds & Specs

Site Summary

Total Rainfall (in):	43
Total Disturbed Acreage:	153.44

Site Land Cover Summary

Pre-ReDevelopment Land Cover (acres)

	A soils	B Soils	C Soils	D Soils	Totals	% of Total
Forest/Open (acres)	0.00	0.00	127.40	0.00	127.40	83
Managed Turf (acres)	0.00	0.00	24.44	0.00	24.44	16
Impervious Cover (acres)	0.00	0.00	1.60	0.00	1.60	1
					153.44	100

Post-ReDevelopment Land Cover (acres)

	A soils	B Soils	C Soils	D Soils	Totals	% of Total
Forest/Open (acres)	0.00	0.00	0.00	0.00	0.00	0
Managed Turf (acres)	0.00	0.00	149.52	0.00	149.52	97
Impervious Cover (acres)	0.00	0.00	3.92	0.00	3.92	3
					153.44	100

Site Tv and Land Cover Nutrient Loads

	Final Post-Development (Post-ReDevelopment & New Impervious)	Post- ReDevelopment	Post- Development (New Impervious)	Adjusted Pre- ReDevelopment
Site Rv	0.24	0.23	0.95	0.08
Treatment Volume (ft <sup>3</sup> )	132,925	124,924	8,001	43,197
TP Load (lb/yr)	83.52	78.49	5.03	27.14

Baseline TP Load (lb/yr): 61.9592\* *\*Reduction below new development load limitation not required*

Pre- ReDevelopment TP Load per acre (lb/acre/yr)	Final Post-Development TP Load per acre (lb/acre/yr)	Post-ReDevelopment TP Load per acre (lb/acre/yr)
0.18	0.54	0.52

Total TP Load Reduction Required (lb/yr)	20.61	16.53	4.08
--	-------	-------	------

	Final Post-Development Load (Post-ReDevelopment & New Impervious)	Pre- ReDevelopment
TN Load (lb/yr)	597.46	195.67

### Site Compliance Summary

Maximum % Reduction Required Below Pre-ReDevelopment Load	20%
---	-----

\* Note: % Reduction will reduce post-development TP load to less than or equal to baseline load of 61.96 lb/yr (0.41 lb/ac/yr)  
 [Required reduction for Post-ReDev. = Post-ReDev TP load - baseline load of 61.9592 lb/yr], baseline load = site area x 0.41 lb/ac/yr

Total Runoff Volume Reduction (ft <sup>3</sup> )	34,921
Total TP Load Reduction Achieved (lb/yr)	21.92
Total TN Load Reduction Achieved (lb/yr)	156.78
Remaining Post Development TP Load (lb/yr)	61.60
Remaining TP Load Reduction (lb/yr) Required	0.00

**\*\* TARGET TP REDUCTION EXCEEDED BY 1.31 LB/YEAR \*\***

\*Reduction below new development load limitation not required

### Site Compliance Summary

Maximum % Reduction Required Below Pre-ReDevelopment Load	20%
---	-----

\* Note: % Reduction will reduce post-development TP load to less than or equal to baseline load of 61.96 lb/yr (0.41 lb/ac/yr)  
 [Required reduction for Post-ReDev. = Post-ReDev TP load - baseline load of 61.9592 lb/yr], baseline load = site area x 0.41 lb/ac/yr

Total Runoff Volume Reduction (ft <sup>3</sup> )	34,921
Total TP Load Reduction Achieved (lb/yr)	21.92
Total TN Load Reduction Achieved (lb/yr)	156.78
Remaining Post Development TP Load (lb/yr)	61.60
Remaining TP Load Reduction (lb/yr) Required	0.00

\*\* TARGET TP REDUCTION EXCEEDED BY 1.31 LB/YEAR \*\*

\*Reduction below new development load limitation not required

---

### Drainage Area Summary

	D.A. A	D.A. B	D.A. C	D.A. D	D.A. E	Total
Forest/Open (acres)	0.00	0.00	0.00	0.00	0.00	0.00
Managed Turf (acres)	149.52	0.00	0.00	0.00	0.00	149.52
Impervious Cover (acres)	3.92	0.00	0.00	0.00	0.00	3.92
Total Area (acres)	153.44	0.00	0.00	0.00	0.00	153.44

### Drainage Area Compliance Summary

	D.A. A	D.A. B	D.A. C	D.A. D	D.A. E	Total
TP Load Reduced (lb/yr)	21.92	0.00	0.00	0.00	0.00	21.92
TN Load Reduced (lb/yr)	156.78	0.00	0.00	0.00	0.00	156.78

## Drainage Area A Summary

## Land Cover Summary

	A Soils	B Soils	C Soils	D Soils	Total	% of Total
Forest/Open (acres)	0.00	0.00	0.00	0.00	0.00	0
Managed Turf (acres)	0.00	0.00	149.52	0.00	149.52	97
Impervious Cover (acres)	0.00	0.00	3.92	0.00	3.92	3
					153.44	

## BMP Selections

Practice	Managed Turf Credit Area (acres)	Impervious Cover Credit Area (acres)	BMP Treatment Volume (ft <sup>3</sup> )	TP Load from Upstream Practices (lbs)	Untreated TP Load to Practice (lbs)	TP Removed (lb/yr)	TP Remaining (lb/yr)	Downstream Treatment to be Employed
9.b. Sheetflow to Conservation Area, C/D Soils (Spec #2)	74.76	2.94	69,841.93	0.00	43.83	21.92	21.92	

Total Impervious Cover Treated (acres)	2.94
Total Turf Area Treated (acres)	74.76
Total TP Load Reduction Achieved in D.A. (lb/yr)	21.92
Total TN Load Reduction Achieved in D.A. (lb/yr)	156.78

## Runoff Volume and CN Calculations





	1-year storm	2-year storm	10-year storm
Target Rainfall Event (in)	0.00	0.00	0.00

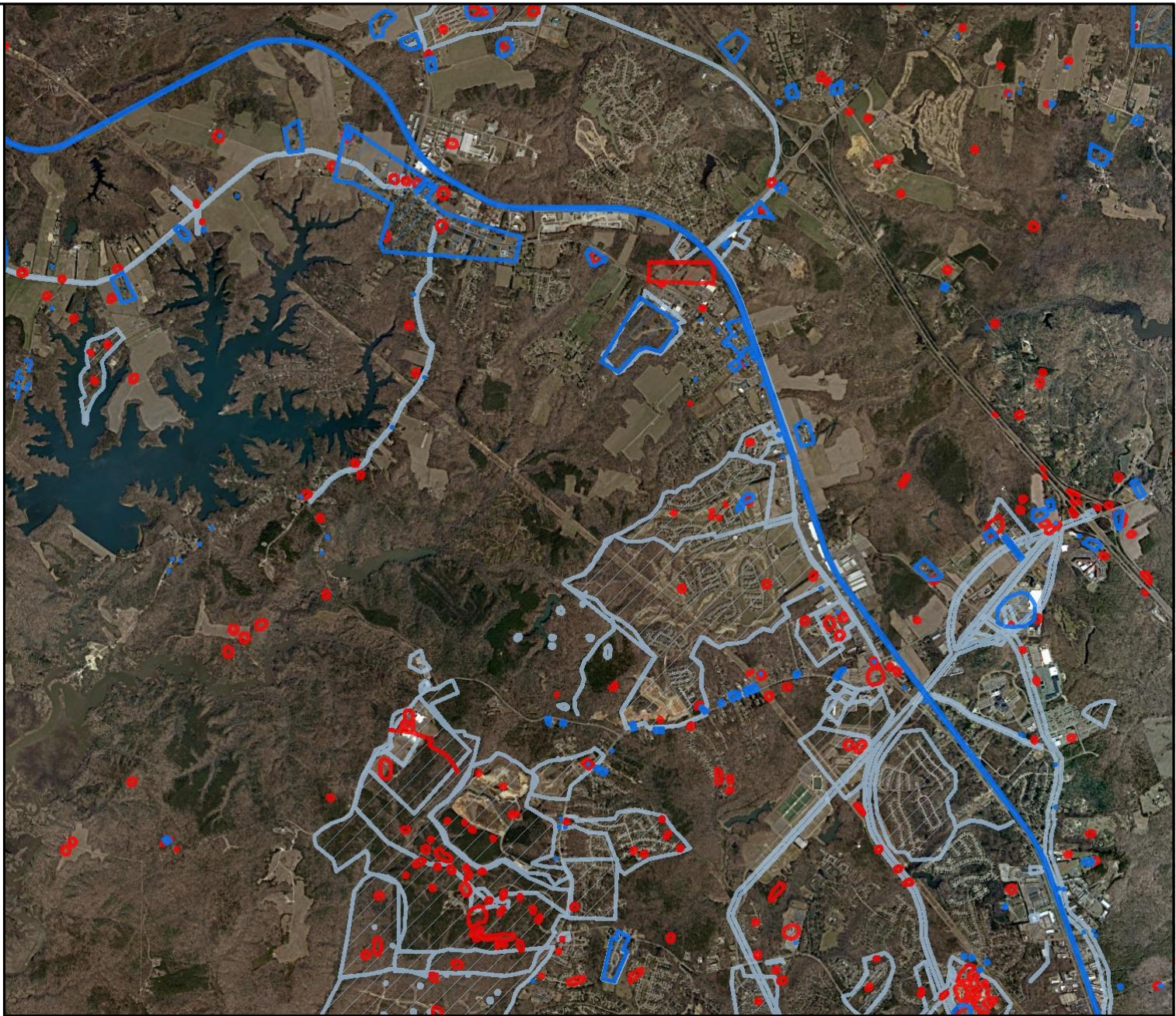
Drainage Areas	RV & CN	Drainage Area A	Drainage Area B	Drainage Area C	Drainage Area D	Drainage Area E
CN		75	0	0	0	0
RR (ft <sup>3</sup> )		34,921	0	0	0	0
1-year return period	RV wo RR (ws-in)	0.00	0.00	0.00	0.00	0.00
	RV w RR (ws-in)	0.00	0.00	0.00	0.00	0.00
	CN adjusted	100	0	0	0	0
2-year return period	RV wo RR (ws-in)	0.00	0.00	0.00	0.00	0.00
	RV w RR (ws-in)	0.00	0.00	0.00	0.00	0.00
	CN adjusted	100	0	0	0	0
10-year return period	RV wo RR (ws-in)	0.00	0.00	0.00	0.00	0.00
	RV w RR (ws-in)	0.00	0.00	0.00	0.00	0.00
	CN adjusted	100	0	0	0	0

Appendix C – VCRIS Area Map



## Legend

-  Architecture Resources
-  Archaeological Resources
-  Archaeology Phase 1 Survey
-  DHR Easements



Feet

0 1200 2400 3600 4800

1:72,224 / 1"=6,019 Feet

**Title: Norge Solar**

**Date: 11/8/2016**

*DISCLAIMER: Records of the Virginia Department of Historic Resources (DHR) have been gathered over many years from a variety of sources and the representation depicted is a cumulative view of field observations over time and may not reflect current ground conditions. The map is for general information purposes and is not intended for engineering, legal or other site-specific uses. Map may contain errors and is provided "as-is". More information is available in the DHR Archives located at DHR's Richmond office.*

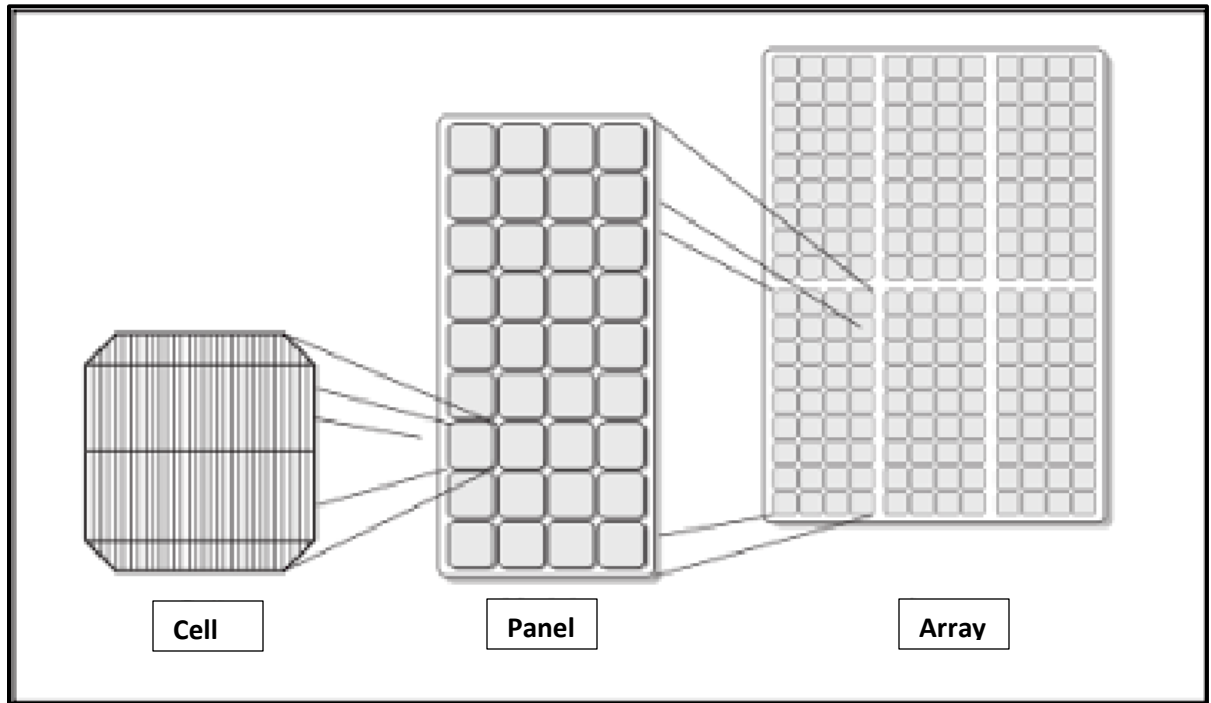
*Notice if AE sites: Locations of archaeological sites may be sensitive to the National Historic Preservation Act (NHPA), and the Archaeological Resources Protection Act (ARPA) and Code of Virginia §2.2-3705.7 (10). Release of precise locations may threaten archaeological sites and historic resources.*

Elements of a ground-mounted array of photovoltaic (solar) panels



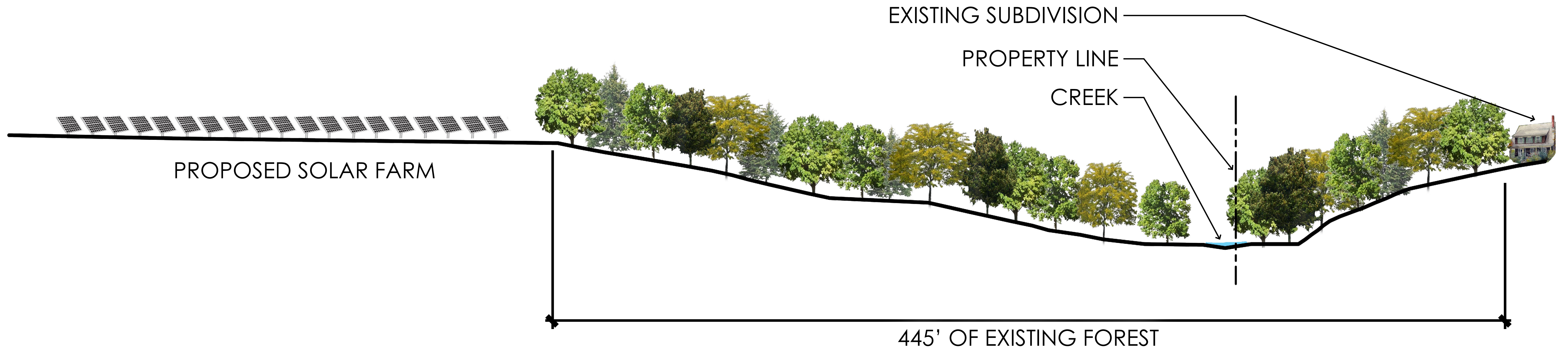
Typical ground-mounted arrays of solar panels

Typical elements of an array





KEY MAP



# Norge Solar - Section View 1

James City County, Virginia

DRAFT

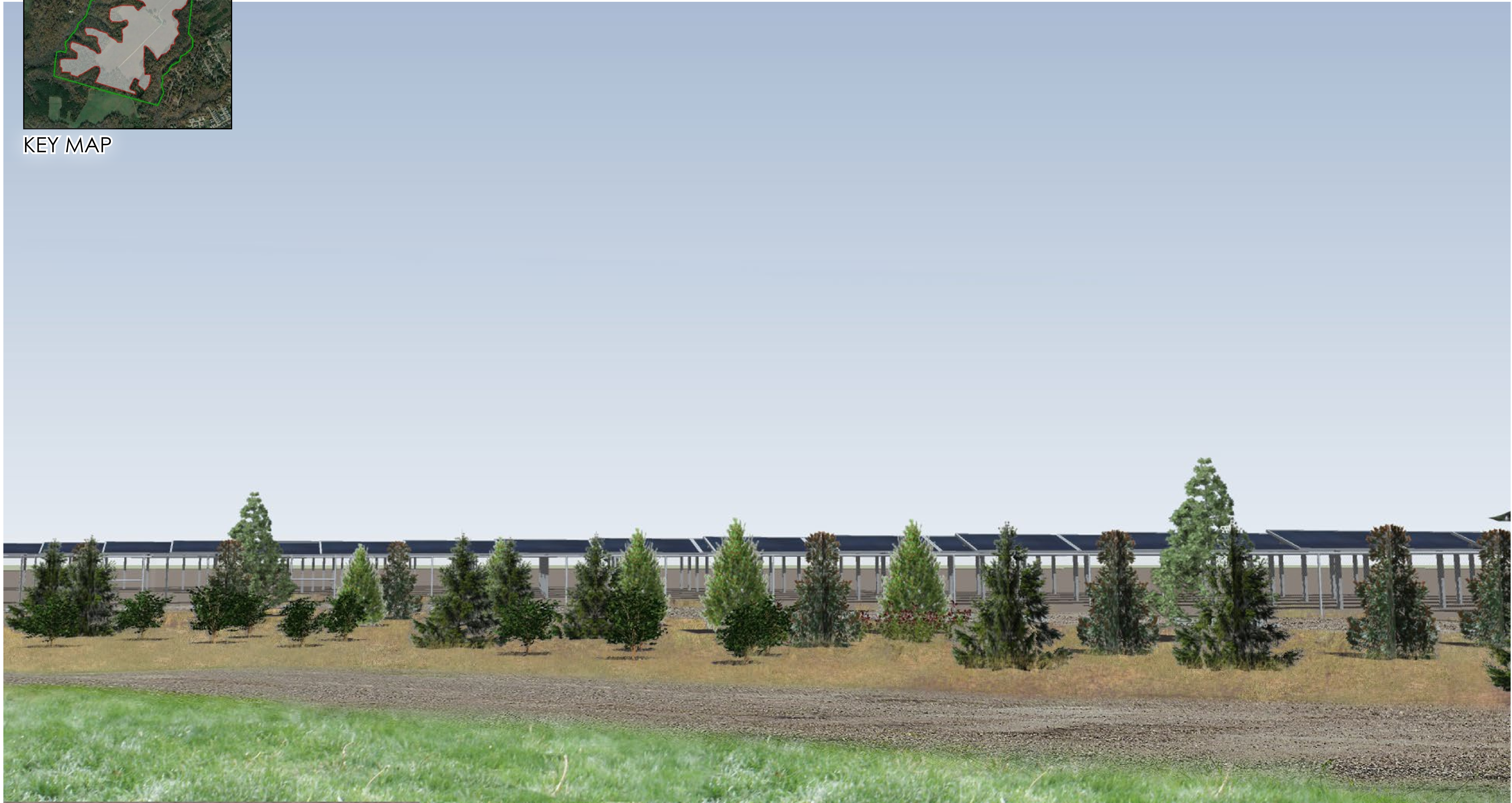
SCALE: NTS

FEBRUARY 28, 2017

Kimley»Horn



KEY MAP



# Norge Solar - Perspective View 2 - Plants at Install

James City County, Virginia

DRAFT

FEBRUARY 28, 2017

Kimley»Horn



KEY MAP



**Norge Solar - Perspective View 2 - Plants approx. 10 years after install**

James City County, Virginia

DRAFT

FEBRUARY 28, 2017

Kimley»Horn



KEY MAP



# Norge Solar - Perspective View 3 - Plants at Install

James City County, Virginia

DRAFT

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KEY MAP



**Norge Solar - Perspective View 3 - Plants approx. 10 years after install**

James City County, Virginia

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KEY MAP



# Norge Solar - Perspective View 4 - Plants at Install

James City County, Virginia

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KEY MAP



**Norge Solar - Perspective View 4 - Plants approx. 10 years after install**

James City County, Virginia

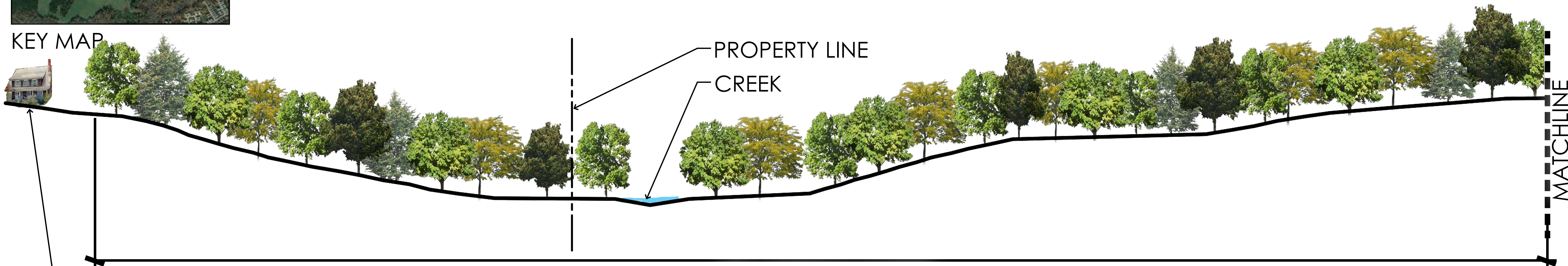
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FEBRUARY 28, 2017

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KEY MAP



EXISTING SUBDIVISION

650' EXISTING FOREST

PROPOSED SOLAR FARM



650' EXISTING FOREST

# Norge Solar - Section View 5

James City County, Virginia

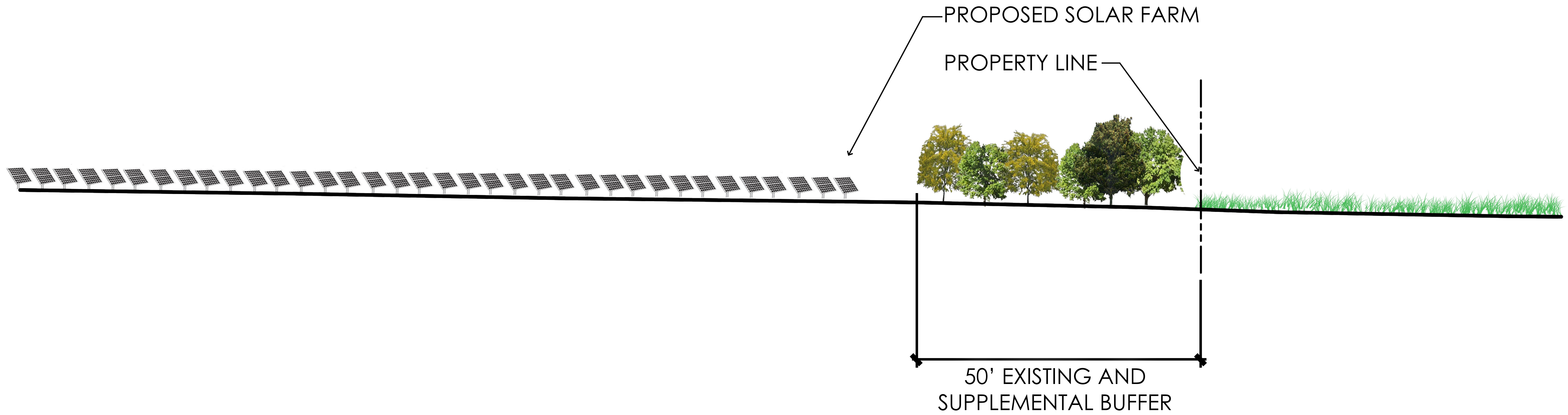
**DRAFT**

SCALE: NTS FEBRUARY 28, 2017

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KEY MAP



# Norge Solar - Section View 6

James City County, Virginia

**DRAFT**

SCALE: NTS

FEBRUARY 28, 2017

Address to James City Planning Commission - Public Hearing Concerning Proposed Solar Facility in Norge – March 1, 2017

After living in upper York County for a number of years, my wife and I decided in 1988 to buy our present home in Norge. Two major factors led us to buy this home, one was the nice small neighborhood we encountered and the other being the visual appeal of the farm that our property adjoined. I knew it was historically rich as is most of the area and Norge had that small town feel but we were 8 miles and 5 traffic lights from our work in Williamsburg. There was quite a bit of farm land in the County then, but unfortunately that has changed. Although I still sense some of that small town feel, our area has seen a drastic upturn in expansion resulting in a great loss of this area's charm and rural identification. We are still 8 miles from town however instead of being separated it has become blended together and to get there we must join a road jammed with vehicles and negotiate 22 traffic lights. I still find a lot of that rural feel when I look at the farm from my backyard. Not only has it been planted in crops for better than 350 years it is a pleasant environment for the few deer that have come around, as well as wild turkey, geese and the occasional bald eagle which I've seen in the area of late.

Like most people who have paid off their mortgage I looked forward to enjoying our home and now that I've been retired over 3 years, even more so. Working all those years and paying it off was finally coming to fruition. Then we heard what was being proposed last fall. We never expected anything like the proposed Solar Farm.

As you might have guessed I and all of the neighbors I've talked with are opposed to this project. We are opposed not because it is a solar farm necessarily, but because of what it would do to this particular piece of land and the surrounding community. Solar power is in fact a good way to help offset the uses of fossil fuels in generating power, however something of this magnitude shouldn't even be considered for a farm such as this.

A number of us in the neighborhood attended the meet and greet that Sun Power held at Norge School last fall. I understood already what solar farms did and how they operated in general. At this gathering we were told what would

have to be done to make this facility operational. I told one of their representatives that at minimum this facility would be unsightly. I was told a buffer fence with foliage (unsightly in its own right) would be a buffer between the fields and the back of our properties. The fence would block very little as I would be able to see over the fence from my deck onto hundreds of solar panels. I looked on the internet at other solar farms around the country and hardly any were set up this close to residential areas.

The problems getting through this neighborhood with vehicles and equipment to build and maintain this kind of operation would be undesirable. Before a facility like this would go into operation there would be a number of other issues that should be addressed, none of them in my opinion would be pluses.

Some facilities have been known to be fire risks, what would that do in trying to get firefighting equipment back into this area? There are risks of solar glare, not only to homes but to aircraft. We live in a flyover zone for civilian and military aircraft and some pilots have complained vigorously about solar panel glare from large facilities around the country. Some who live in close proximity to these complexes might have electromagnetic hypersensitivity issues and would be detrimental to their health. No one can guarantee that our property values will stay the same or go up by having our properties backed up to this kind of intrusion. And how many trees would have to be cut to accommodate this project? These concerns should be enough by themselves to deny this type of operation from being located on this farm.

What's wrong with this farm staying a farm anyway? It provides the land owner with revenue by leasing it to be put into crops the results of which will feed many and benefits our economy. This farm has artifact evidence of 17<sup>th</sup> and 18<sup>th</sup> century occupation on it and the road running through it was once an old connector road from here over to the Chickahominy river area. The existing farm house is one of the last surviving examples of Norwegian house construction in Norge. I remind you Norge was made a community by Scandinavian (mainly Norwegian) settlers at the beginning of the 20<sup>th</sup> century. Both Union and Confederate armies camped around this area after the battle of Williamsburg in

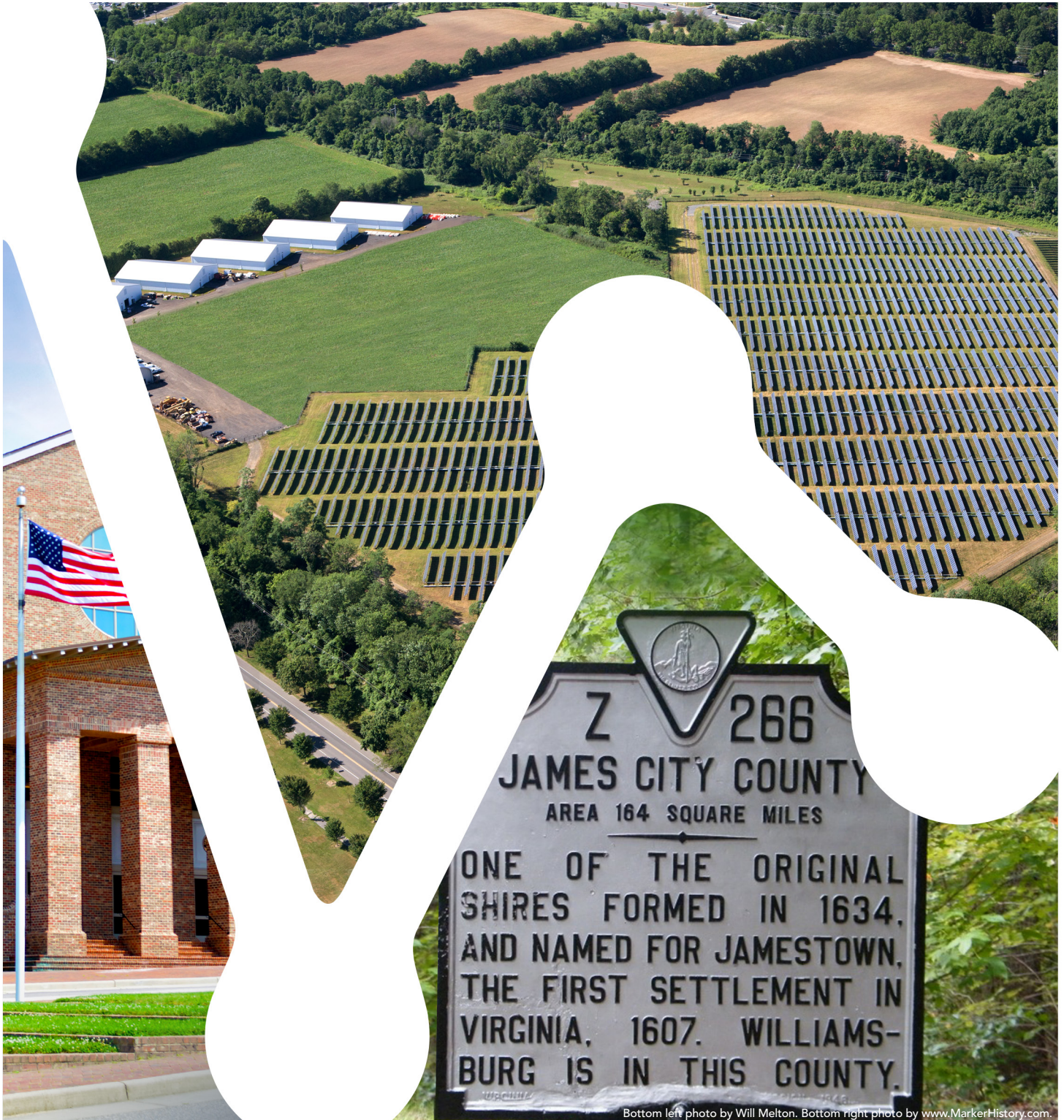
1862. It is still the beauty of this farmland that is appealing. Are we to diminish our farm lands in James City County again for this kind of construction?

SunPower touts that the construction of this facility will bring jobs and revenue to the area. The jobs will be temporary for the most part and furthermore those who would work at building it won't live here or have their houses setting next to it, even the person who owns the land doesn't live here either so none of them would feel the adverse effects. The revenues, I dare say, will not be as significant as they would make us believe. SunPower as a company has had some difficulties lately, even its stock having going down in the last two years. In various parts of the country power company fees are used to subsidize and/or buy power from Solar Facilities such as the one being proposed. This facility would be forced on us and in a roundabout way could partially be paid for through power company fees could it not? No one can guarantee that any of this will not happen.

I ask you, would you want a home or purchase one that backed up to one of these huge obtrusive facilities? No of you would. Put yourselves in our place and realize what this would do to this area. If there is a desire to build a solar complex then help them find a place that won't intrude on a community located as close to it as ours is proposed to be. Help us keep as much of James City County from being pushed out and paved over as has already been done. I certainly would have misgivings about living in a region that would allow this kind of project to go through. Please help us keep our history, our ambiance and what rural character we have left it has been our identification for centuries. Please, let it stay a farm for all of us.

Thank you very much for the opportunity to speak to you tonight.

# The Economic and Fiscal Contribution that **THE NORGE SOLAR PROJECT WILL MAKE TO JAMES CITY COUNTY AND VIRGINIA**



Bottom left photo by Will Melton. Bottom right photo by [www.MarkerHistory.com](http://www.MarkerHistory.com).

Report prepared by



Dr. Mangum earned his Ph.D. in economics at George Mason University in 1995. He has more than two decades of experience in quantitative analysis and policy development at the federal and state level.

Mangum Economic Consulting, LLC is a Richmond, Virginia based firm that specializes in producing objective economic, quantitative, and qualitative analysis in support of strategic decision making. Examples of typical studies include:

### **Policy Analysis**

*Identify the intended and, more importantly, unintended consequences of proposed legislation and other policy initiatives.*

### **Economic Impact Assessments and Return on Investment Analyses**

*Measure the economic contribution that business, education, or other enterprises make to their localities.*

### **Workforce Information**

*Project the demand for, and supply of, qualified workers.*

### **Cluster Analysis**

*Use occupation and industry clusters to illuminate regional workforce and industry strengths and identify connections between the two.*

### **Environmental Scanning**

*Assess the economic, demographic, and other factors likely to affect your enterprise in the future.*

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## **Executive Summary**

### Introduction

SunPower is a global provider of solar technology and energy services for residential, commercial, and power plant applications. This report assesses the economic and fiscal contribution that the proposed Norge Solar Facility would involve development of up to a 20-megawatt photovoltaic solar electrical generation facility on approximately 225 acres of rural property in James City County, about two miles northwest of Lightfoot.

### Economic Impact

Our analysis shows that the proposed Norge Solar Facility would make a significant positive economic contribution to James City County and the state of Virginia as a whole, both in terms of the one-time pulse of economic activity that would be generated through its construction, and its on-going annual operation.

As detailed below, construction of the Norge Solar Facility is expected to generate approximately 16 full-time-equivalent jobs, \$889,513 in salaries and wages, and \$2.3 million in overall economic activity within the County. While in its first full year of operation, the Norge Solar Facility is expected to generate approximately 2 full-time-equivalent jobs, \$108,345 in salaries and wages, and \$232,053 in overall economic activity within the County. And over the 35 year life of the Norge Solar Facility, it is expected to generate \$3.8 million in cumulative salaries and wages, and \$8.1 million in cumulative economic activity within the County.

In addition, if we expand the study area to encompass the state of Virginia in its entirety, our analysis indicates that construction of the Norge Solar Facility is expected to generate approximately 89 full-time-equivalent jobs, \$5.2 million in salaries and wages, and \$14.3 million in overall economic activity. While in its first full year of operation, the Norge Solar Facility is also expected to generate approximately 3 full-time-equivalent jobs, \$131,105 in salaries and wages, and \$297,495 in overall economic activity statewide. And over the 35 year life of the Norge Solar Facility, it is expected to generate \$4.6 million in cumulative salaries and wages, and \$10.4 million in cumulative economic activity statewide.



<b>One-Time Economic Impact on <u>James City County</u> From Construction:</b>			
	<b>Employment</b>	<b>Labor Income</b>	<b>Output</b>
<i><b>Total, Direct, Indirect, and Induced Economic Activity</b></i>	<b>16</b>	<b>\$889,513</b>	<b>\$2,266,341</b>
<b>Ongoing Economic Impact on <u>James City County</u> From Operations:</b>			
	<b>Employment</b>	<b>Labor Income</b>	<b>Output</b>
<i><b>Annual Total, Direct, Indirect, and Induced Economic Activity</b></i>	<b>2</b>	<b>\$108,345</b>	<b>\$232,053</b>
<i><b>Cumulative Total, Direct, Indirect, and Induced Economic Activity over 35 Year Life of Project</b></i>	<b>2</b>	<b>\$3,792,075</b>	<b>\$8,121,855</b>

<b>One-Time Economic Impact on the <u>State of Virginia</u> From Construction:</b>			
	<b>Employment</b>	<b>Labor Income</b>	<b>Output</b>
<i><b>Total, Direct, Indirect, and Induced Economic Activity</b></i>	<b>89</b>	<b>\$5,190,207</b>	<b>\$14,286,755</b>
<b>Ongoing Economic Impact on the <u>State of Virginia</u> From Operations:</b>			
	<b>Employment</b>	<b>Labor Income</b>	<b>Output</b>
<i><b>Annual Total, Direct, Indirect, and Induced Economic Activity</b></i>	<b>3</b>	<b>\$131,105</b>	<b>\$297,495</b>
<i><b>Cumulative Total, Direct, Indirect, and Induced Economic Activity over 35 Year Life of Project</b></i>	<b>3</b>	<b>\$4,488,675</b>	<b>\$10,412,325</b>



## State and Local Fiscal Impact

Our analysis shows that the proposed Norge Solar Facility would also create significant state and local tax revenue, both through the one-time pulse of economic activity that would be generated through its construction, and as a result of its on-going annual operation. As shown below, construction of the Norge Solar Facility is expected to generate approximately \$68,155 in state and local tax revenue in James City County. While in its first full year of operation, the Norge Solar Facility is expected to generate approximately \$11,833 in state and local tax revenue within James City County, and over its 35 year life it is expected to generate \$415,905 in cumulative state and local tax revenue within James City County.

	<b>Annual State and Local Fiscal Impact</b>	<b>Cumulative State and Local Fiscal Impact over 35 Year Life of Project</b>
<b>One-Time Impact in <u>James City County</u> From Construction</b>	<b>\$68,155</b>	<b>N/A</b>
<b>On-Going Impact in <u>James City County</u> From Annual Operations</b>	<b>\$11,833</b>	<b>\$415,905</b>

Expanding the study area to encompass the state of Virginia as a whole shows that construction of the Norge Solar Facility is expected to generate approximately \$465,714 in state and local tax revenue statewide. While in its first full year of operation, the Norge Solar Facility is expected to generate approximately \$16,226 in state and local tax revenue statewide, and over its 35 year life it is expected to generate \$567,910 in cumulative state and local tax revenue statewide.

	<b>Annual State and Local Fiscal Impact</b>	<b>Cumulative State and Local Fiscal Impact over 35 Year Life of Project</b>
<b>One-Time Impact in <u>Virginia</u> From Construction</b>	<b>\$465,714</b>	<b>N/A</b>
<b>On-Going Impact in <u>Virginia</u> From Annual Operations</b>	<b>\$16,226</b>	<b>\$567,910</b>



Comparison with Current Agricultural and Alternative Residential Use of Property

Comparing the estimated state and local fiscal impact of the proposed Norge Solar Facility on James City County, to the estimated state and local fiscal impact of the project site in its current agricultural use, and to its potential alternative use as a residential development, shows that the proposed Norge Solar Facility would provide: 1) approximately \$9,405 more state and local fiscal impact in its first full year of operation, and approximately \$329,175 in additional state and local fiscal impact over the 35 year life of the project, than the property does in its current agricultural use, and 2) approximately \$274,538 more state and local fiscal impact in its first full year of operation, and approximately \$9.6 million in additional state and local fiscal impact over the 35 year life of the project, than the property would in an alternative residential use.

<b>Comparison between Norge Solar Facility and Current Agricultural Use:</b>		
	<b>First Year State and Local Fiscal Impact</b>	<b>Cumulative State and Local Fiscal Impact over 35 Year Life of Project</b>
<b>Proposed Norge Solar Facility</b>	\$11,883	\$415,905
<b>Current Agricultural Use</b>	\$2,478	\$86,730
<b>NET DIFFERENCE</b>	<b>\$9,405</b>	<b>\$329,175</b>
<b>Comparison between Norge Solar Facility and Alternative Residential Use:</b>		
	<b>First Year State and Local Fiscal Impact</b>	<b>Cumulative State and Local Fiscal Impact over 35 Year Life of Project</b>
<b>Proposed Norge Solar Facility</b>	\$11,883	\$415,905
<b>Alternative Residential Use</b>	(\$262,655)	(\$9,192,927)
<b>NET DIFFERENCE</b>	<b>\$274,538</b>	<b>\$9,608,832</b>



## Other Considerations

Industrial development prospects with high energy needs are becoming increasingly sensitive to the proportion of their energy requirements that are produced through renewable sources. A good example of this is data centers, a very high-growth, very high-wage industry that provides the technological backbone of the modern economy. As a case in point, in November of 2015 plans were announced to construct the Amazon Solar Farm U.S. East, an 80-megawatt solar facility that will be located on Virginia's Eastern Shore in Accomack County, Virginia. Construction of that facility was made possible as a result of a long-term power purchase agreement with Amazon Web Services, an affiliate of Amazon's cloud computing business. As this example demonstrates, renewable energy is becoming an important asset for localities in promoting technology-driven economic development.

## Conclusion

The proposed Norge Solar Facility would make a significant positive economic and fiscal contribution to James City County and the state of Virginia as a whole.

*The estimates provided in this report are based on the best information available and all reasonable care has been taken in assessing that information. However, because these estimates attempt to foresee circumstances that have not yet occurred, it is not possible to provide any assurance that they will be representative of actual events. These estimates are intended to provide a general indication of likely future outcomes and should not be construed to represent a precise measure of those outcomes.*



## Introduction

This report assesses the economic and fiscal contribution that the Norge Solar Facility would make to James City County and the state of Virginia as a whole. The remainder of the report is divided into six sections. The *Norge Solar Facility* section provides a brief description of the project. The *Electricity Production in Virginia* section provides general background information on Virginia’s electricity production sector and the role that solar energy could play in that sector. The *Local Economic Profile* section supplies context for the impact analysis to follow, by providing information on the local economy of James City County. In the *Economic and Fiscal Impact* section, we provide an empirical assessment of the economic and fiscal contribution that the Norge Solar Facility would make to James City County and the state of Virginia as a whole. While in the *Other Considerations* section we discuss issues that are not directly addressed in the economic and fiscal impact analysis, such as how the proposed project supports Virginia’s stated energy goals and the potential spillover effects for economic development. Finally, in the *Conclusion* section we provide a brief conclusion and summary of our findings.

## Norge Solar Facility

The proposed Norge Solar Facility would involve development of up to a 20-megawatt photovoltaic solar facility on approximately 225 acres of rural property in James City County, Virginia. The proposed Norge Solar Facility site would be located about two miles northwest of Lightfoot. This portion of James City County is largely wooded with some agricultural use, but there are residential neighborhoods northwest, northeast, and southeast of the proposed site.

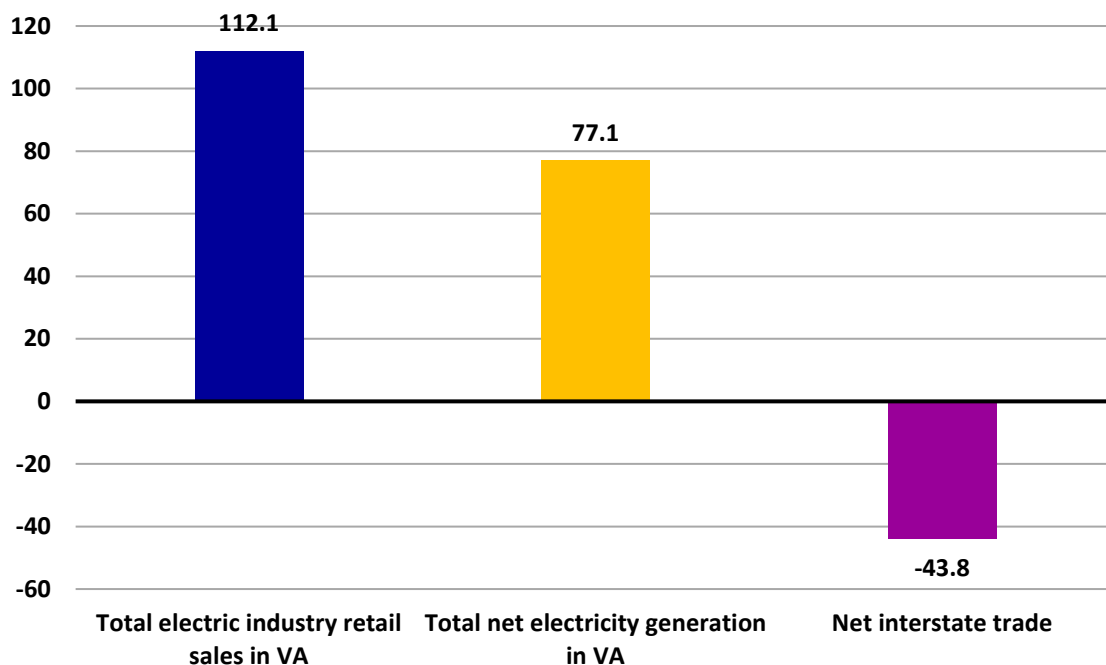
## Electricity Production in Virginia

In this section, we provide a backdrop for the proposed Norge Solar Facility by profiling Virginia’s electricity production sector and the role that solar energy could play in that sector.

### Overall Market

As shown in Figure 1, in 2014 electricity sales in Virginia totaled 112.1 million megawatt hours, ranking the state 10<sup>th</sup> among the fifty states in terms of electricity consumption. However, only

69 percent of that demand was met by in-state utilities, independent producers, and other sources. As a result, Virginia had to import almost two-fifths of the electricity it consumed from producers in other states. As with all imports, this means that the jobs, wages, and economic output created by that production went to localities in those states, not to localities in Virginia.



**Figure 1: Demand and Supply of Electricity in Virginia in 2014 (in millions of megawatt-hours)<sup>1</sup>**

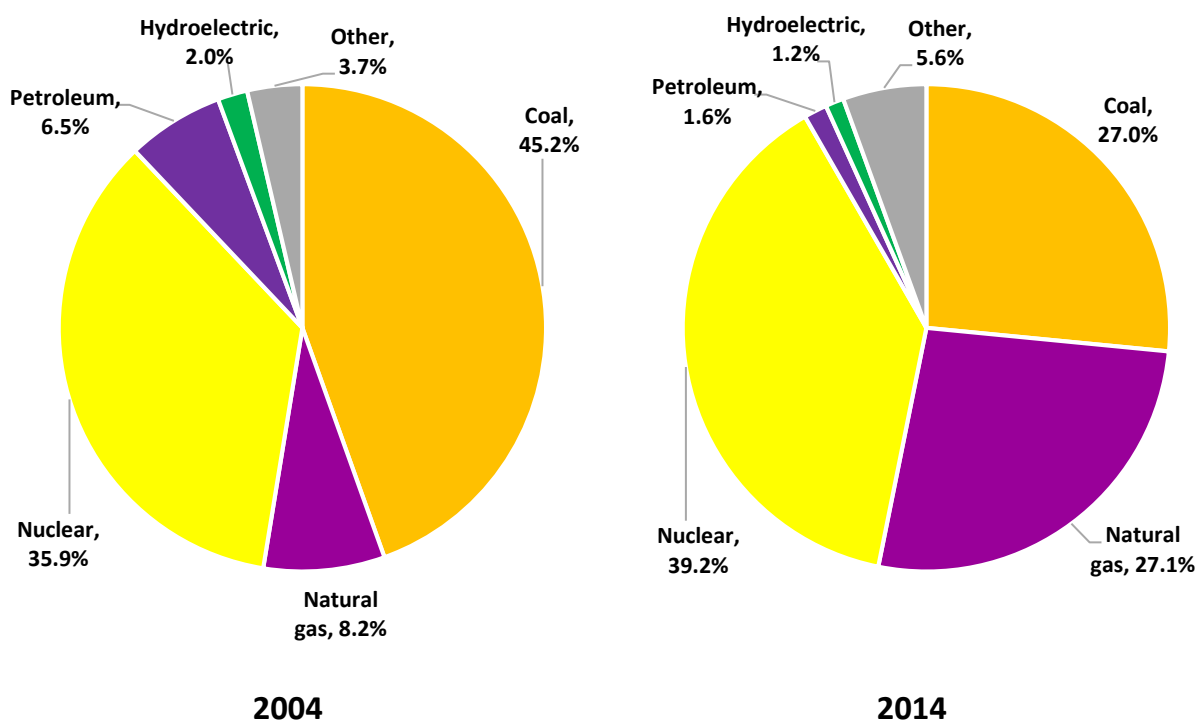
### Sources of Production

Between 2004 and 2014, the total amount of electricity produced in Virginia declined from 78.9 to 77.1 million megawatt-hours, even as the total population of the state increased from 7.5 to 8.3 million. Figure 2 provides a comparison of the energy sources that were used to produce electricity in Virginia in these two years. As these data show, the share of electricity produced using high-emissions energy sources declined over the period. Where coal was the state’s largest source of electricity in 2004, accounting for 45.2 percent of production, by 2014 it had fallen to third place, and accounted for only 27.0 percent of production. Similarly, where

<sup>1</sup> *Data Source:* U.S. Energy Information Administration. In this chart, “net interstate trade” also takes into account losses during transmission and production for direct use. As a result, it does not directly equal the residual of net generation minus total retail sales.

petroleum accounted for 6.5 percent of the state’s electricity production in 2004, by 2014 that that proportion had fallen to 1.6 percent.

In contrast, the share of electricity produced using cleaner-burning low-emissions energy sources increased over the period. Where natural gas accounted for only 8.2 percent of Virginia’s electricity production in 2004, by 2014 that proportion had more than tripled to 27.1 percent, making natural gas the state’s second largest source of electricity. Similarly, where nuclear energy accounted for 35.9 percent of the state’s electricity production in 2004, by 2014 that that proportion had grown to 39.2 percent. The one exception to this trend is wind and solar power, which accounted for zero percent of Virginia’s electricity production in both 2004 and 2014.



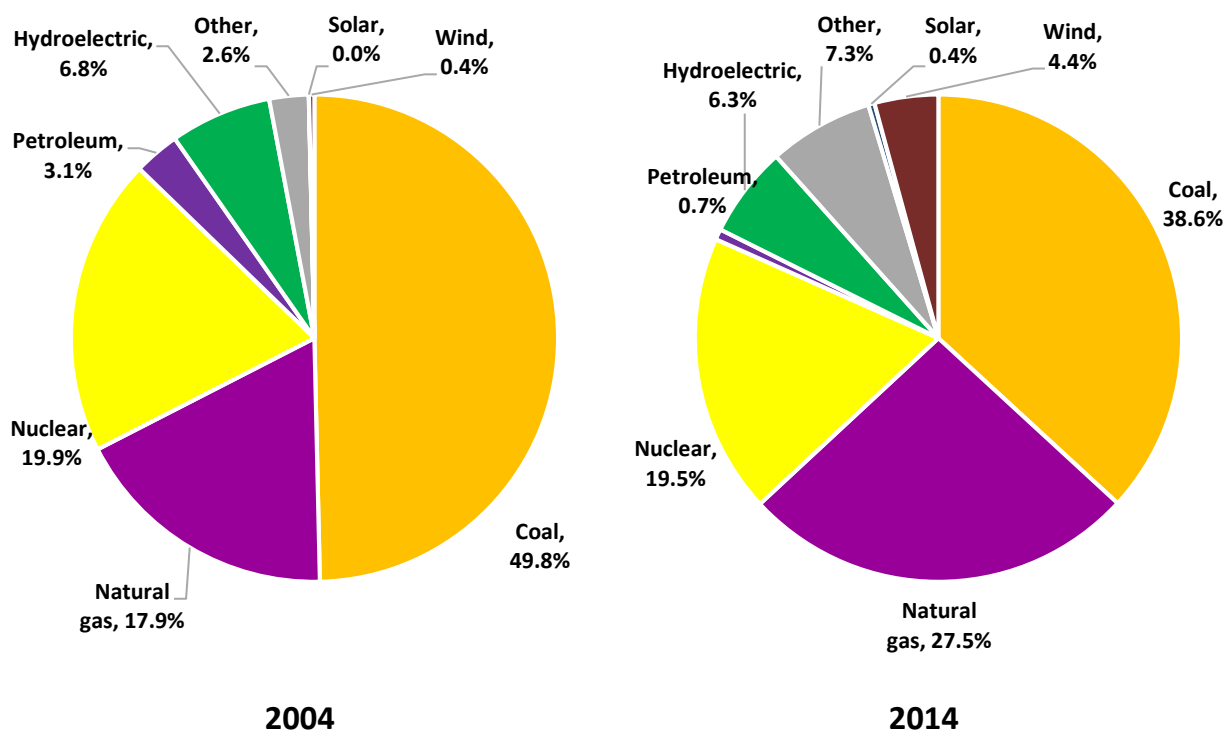
**Figure 2: Electricity Generation in Virginia by Energy Source<sup>2</sup>**

Figure 3 provides similar data for the U.S. as a whole. A quick comparison of Figures 2 and 3 shows similarities, even though the degree of reliance on specific energy sources for electricity production is quite different. Nationally, as in Virginia, the most pronounced trend between

<sup>2</sup> Data Source: U.S. Energy Information Administration.



2004 and 2014 was that cleaner-burning low-emissions energy sources replaced high-emissions sources over the period. Where coal accounted for almost half of all electricity production nationwide in 2004, by 2014 that proportion had fallen to 38.6 percent. Similarly, where petroleum accounted for 3.1 percent of the country’s electricity production in 2004, by 2014 that that proportion had fallen to 0.7 percent. While at the other end of the spectrum, where natural gas accounted for 17.9 percent of electricity production nationally in 2004, by 2014 that figure had grown to 27.5 percent.



**Figure 3: Electricity Generation in the U.S. by Energy Source<sup>3</sup>**

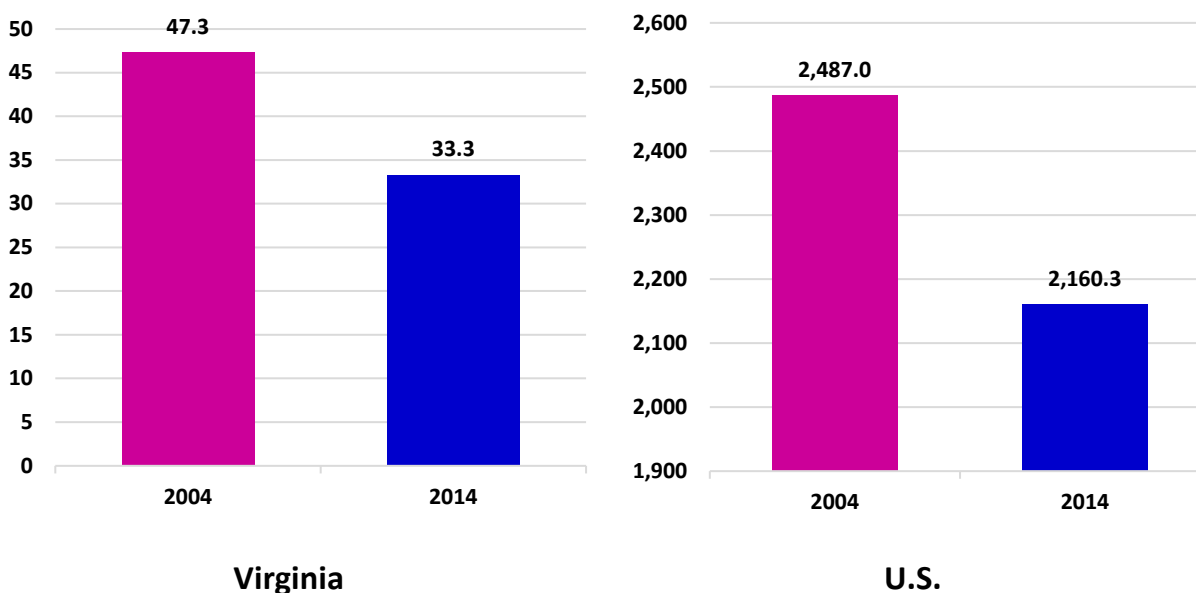
One notable difference between the national trends represented in Figure 3 and the Virginia trends represented in Figure 2, however, is in the wind and solar categories. Where nationally the total contribution of these two energy sources to electricity production increased from 0.4 percent in 2004 to 4.8 percent in 2014, in Virginia wind and solar energy did not materially contribute to electricity production in 2004 or 2014.

<sup>3</sup> Data Source: U.S. Energy Information Administration.

## Impact on the Environment

In discussing the impact of these trends on the environment, it is important to realize that electricity production is the U.S.’s largest source of greenhouse gas emissions. In 2004, electricity production accounted for 39.4 percent of all carbon dioxide emissions from fossil fuel consumption in the U.S., and ten years later in 2014 that figure had only dropped to 37.8 percent.<sup>4</sup> However, that small change in percentage share masks some very significant changes in absolute emissions. Moreover, those changes in emissions levels were largely attributable to the shifts described above, which is to say that as the industry has transitioned to cleaner-burning energy sources, its greenhouse gas emissions have fallen.

Figure 4 depicts this change for both Virginia and the U.S. nationally. As these data indicate, between 2004 and 2014, as the share of electricity produced in Virginia by coal and petroleum fell from 51.7 to 28.6 percent, carbon dioxide emissions from electricity production fell from 47.3 to 33.3 million metric tons. Similarly, at the national level as the share of electricity produced by coal and petroleum fell from 52.9 to 39.3 percent, carbon dioxide emissions from electricity production fell from 2,487.0 to 2,160.3 million metric tons.



**Figure 4: Carbon Dioxide Emissions from Electricity Production (in millions of metric tons)<sup>5</sup>**

<sup>4</sup> Data Source: U.S. Energy Information Administration.

<sup>5</sup> Data Source: U.S. Energy Information Administration.

To further promote these shifts, the very first recommendation in Governor McAuliffe’s 2014 *Virginia Energy Plan* proposes to “accelerate the development of renewable energy sources in the Commonwealth to ensure a diverse fuel mix,” because doing so “will lead to economic prosperity through increased jobs and environmental health through lower harmful emissions.”<sup>6</sup>

## Local Economic Profile

In this section, we provide context for the economic and fiscal impact assessments to follow by profiling the local economy of James City County.

### Total Employment

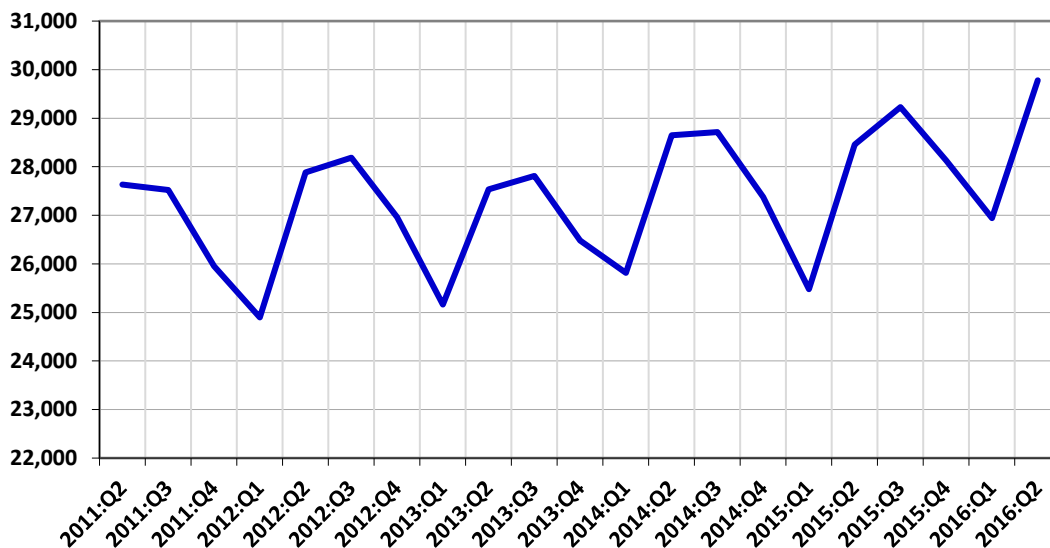
Figure 5 depicts the trend in total employment in James City County from the second quarter of 2011 to the second quarter of 2016. As these data show, county employment generally trended upward throughout this period. Another notable characteristic of these data is that they tend to exhibit pronounced seasonality, with employment peaking in the third quarter of the year and hitting a trough in the first quarter of the year. As of the second quarter of 2016, county employment stood at 29,780 jobs. This represents a 2,145 job, or 7.8 percent, increase in employment over the period as a whole. To put this number in perspective, over this same period total employment statewide in Virginia increased by 5.9 percent.<sup>7</sup>

To control for seasonality and provide a point of reference, Figure 6 compares the year-over-year change in total employment in James City County to that of the state of Virginia as a whole over the same five-year period. Any point above the zero line in this graph indicates positive year-over-year employment growth, while any point below the zero line indicates a decline in year-over-year employment. As these data indicate, year-over-year employment changes in James City County were volatile over this period, and significantly under-performed the statewide norm throughout much of 2013 and 2015. As of the second quarter of 2016 (the last period for which data are currently available), year-over-year employment growth was 4.7 percent in James City County as compared to 1.7 percent statewide in Virginia.

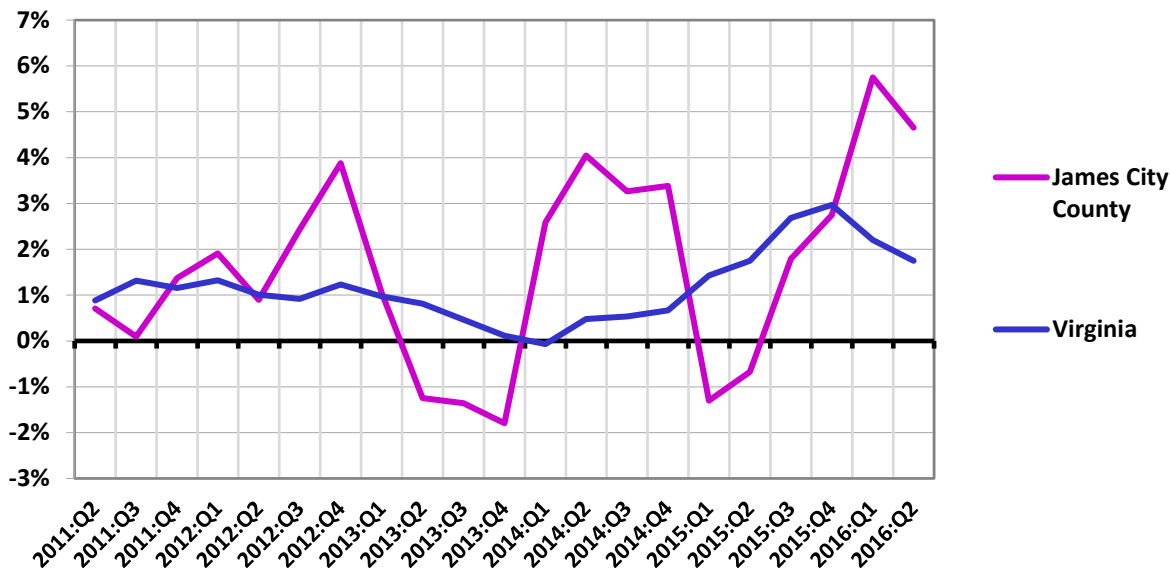
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<sup>6</sup> *Virginia Energy Plan*, Virginia Department of Mines, Minerals, and Energy, October 1, 2014.

<sup>7</sup> *Data Source*: Virginia Employment Commission.



**Figure 5: Total Employment in James City County – Second Quarter of 2011 to Second Quarter of 2016<sup>8</sup>**



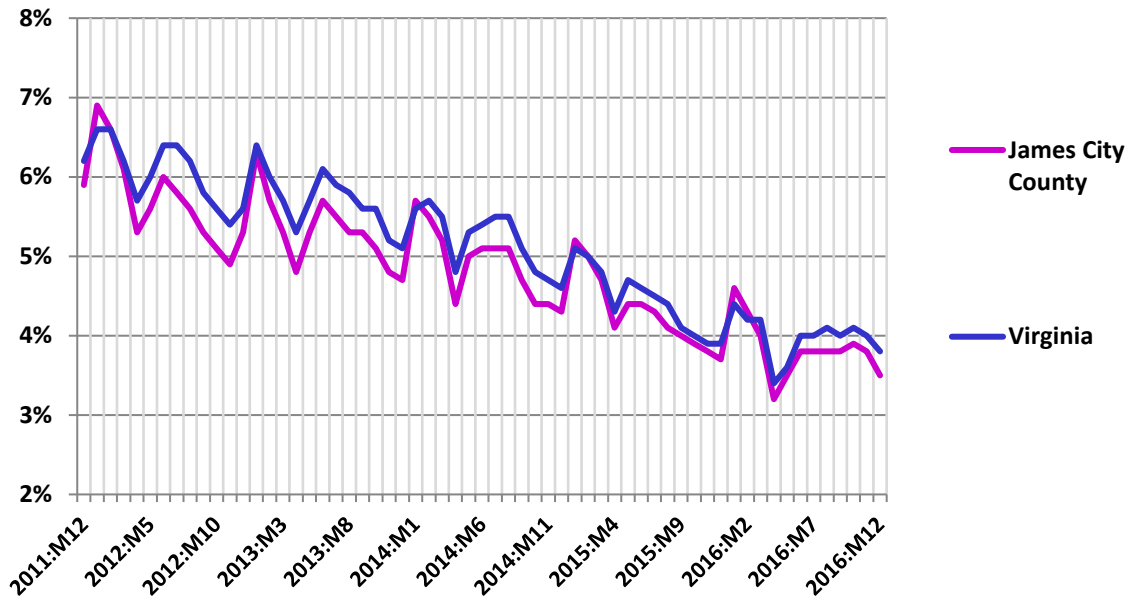
**Figure 6: Year-Over-Year Change in Total Employment – Second Quarter of 2011 to Second Quarter of 2016<sup>9</sup>**

<sup>8</sup> Data Source: Virginia Employment Commission.

<sup>9</sup> Data Source: Virginia Employment Commission.

## Unemployment

Figure 7 illustrates the trend in James City County’s unemployment rate over the five-year period from December 2011 through December 2016. As these data show, unemployment rates in James City County were generally a half percentage point below the statewide norm for much of this period. As of December 2016, unemployment stood at 3.5 percent in James City County and 3.8 percent in Virginia.



**Figure 7: Unemployment Rate – December 2011 to December 2016<sup>10</sup>**

## Employment and Wages by Major Industry Sector

To provide a better understanding of the underlying factors motivating the total employment trends depicted in Figures 5 and 6, Figures 8 through 10 provide data on employment and wages by major industry sector in James City County.

Figure 8 provides an indication of the distribution of employment across major industry sectors in James City County’s economy by ranking each sector by total employment in the second quarter of 2016. As these data indicate, the county’s largest employment sector that quarter was *Arts, Entertainment, and Recreation* (4,383 jobs), followed by *Health Care and Social*

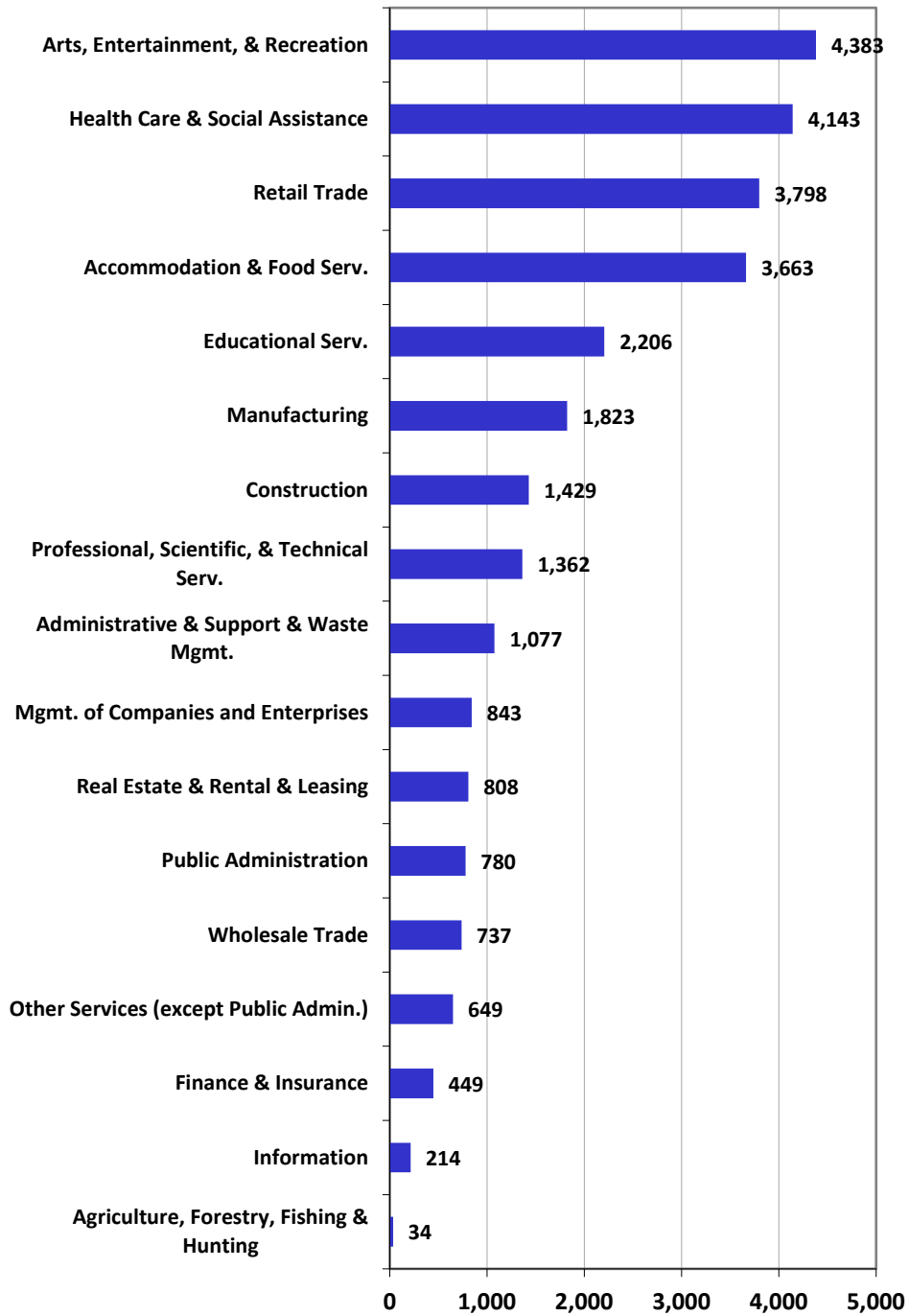
<sup>10</sup> Data Source: Virginia Employment Commission and U.S. Bureau of Labor Statistics.



*Assistance* (4,143 jobs), *Retail Trade* (3,798 jobs), *Accommodation and Food Services* (3,663 jobs), and *Educational Services* (2,206 jobs). Reflecting James City County's proximity to the Williamsburg Historic District and other tourist destinations, the local employment footprint for *Arts, Entertainment, and Recreation* is 7.4 times as large as one would expect based on the statewide norm, while the local employment footprint for *Retail Trade* is 1.1 times as large as one would expect, and *Accommodation and Food Services* 1.3 times as large.

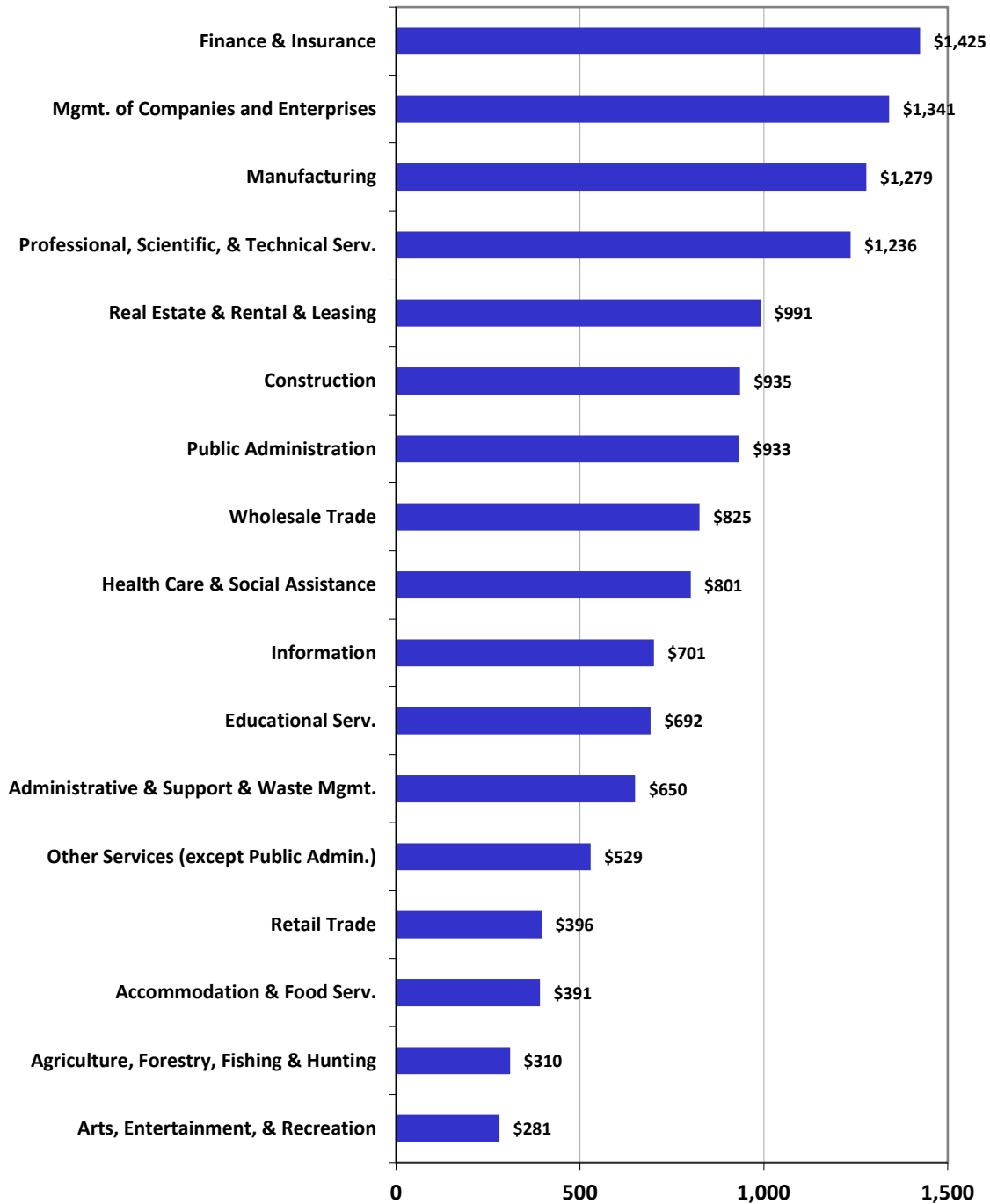
Figure 9 provides a similar ranking for average weekly wages by major industry sector in James City County in the second quarter of 2016. As these data show, the highest paying industry sectors in the county that quarter were *Finance and Insurance* (\$1,425 per week), *Management of Companies and Enterprises* (\$1,341 per week), *Manufacturing* (\$1,279 per week), *Professional, Scientific, and Technical Services* (\$1,236 per week), and *Real Estate* (\$991 per week). By way of reference, the average weekly wage across all industry sectors in James City County that quarter was \$693 per week.

Lastly, Figure 10 details the change in employment between the second quarter of 2015 and the second quarter of 2016 by major industry sector in James City County. Over this period, the largest employment gains occurred in the *Manufacturing* (up 500 jobs), *Accommodation and Food Services* (up 451 jobs), and *Professional, Scientific, and Technical Services* (up 51 jobs) sectors. While at the other end of the spectrum, the largest losses occurred in the *Administrative and Support and Waste Management* (down 61 jobs), *Wholesale Trade* (down 29 jobs), and *Arts, Entertainment, and Recreation* (down 23 jobs) sectors.



**Figure 8: Employment by Major Industry Sectors – 2016:Q2<sup>11</sup>**

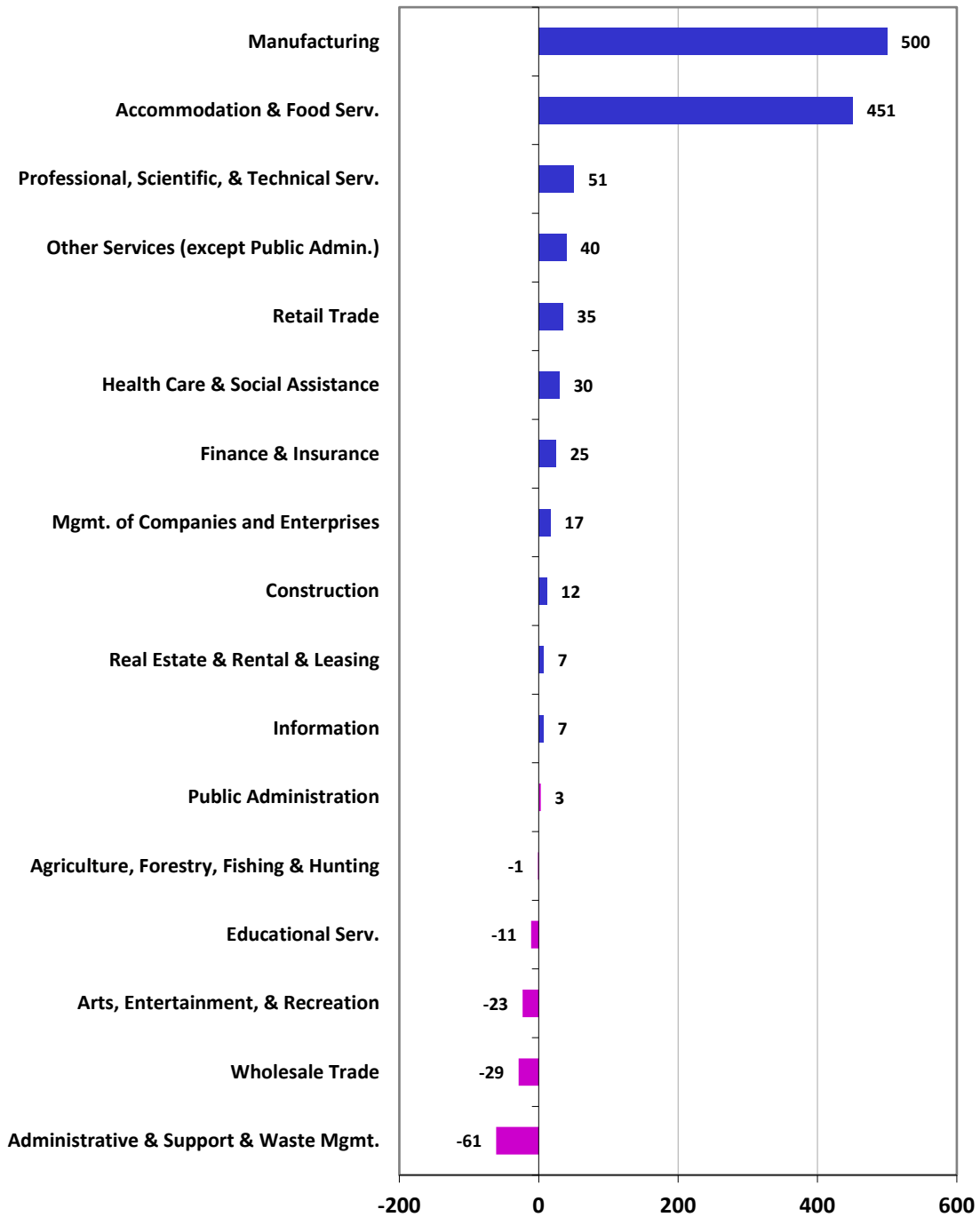
<sup>11</sup> Data Source: Virginia Employment Commission.



**Figure 9: Average Weekly Wages by Major Industry Sector in James City County – 2016:Q2<sup>12</sup>**

<sup>12</sup> Data Source: Virginia Employment Commission.





**Figure 10: Change in Employment by Major Industry Sector in James City County – 2015:Q2 to 2016:Q2<sup>13</sup>**

<sup>13</sup> Data Source: Virginia Employment Commission.

## Economic and Fiscal Impact

In this section, we quantify the economic and fiscal contribution that the Norge Solar Facility would make to James City County and the state of Virginia as a whole. Our analysis separately evaluates the one-time pulse of economic activity that would occur during the construction phase of the project, as well as the annual economic activity that the project would generate during its ongoing operations phase.

### Method

To empirically evaluate the likely local and statewide economic impact attributable to the proposed Norge Solar Facility, we employ a regional economic impact model called IMPLAN.<sup>14</sup> The IMPLAN model is one of the most commonly used economic impact simulation models in the U.S., and in Virginia is used by UVA's Weldon Cooper Center, the Virginia Department of Planning and Budget, the Virginia Employment Commission, and other state agencies and research institutes. Like all economic impact models, the IMPLAN model uses economic multipliers to quantify economic impact.

Economic multipliers measure the ripple effects that an expenditure generates as it makes its way through the economy. For example, as when the Norge Solar Facility purchases goods and services – or when facility employees use their salaries and wages to make household purchases – thereby generating income for someone else, which is in turn spent, thereby becoming income for yet someone else, and so on, and so on. Through this process, one dollar in expenditures generates multiple dollars of income. The mathematical relationship between the initial expenditure and the total income generated is the economic multiplier.

One of the primary advantages of the IMPLAN model is that it uses regional and national production and trade flow data to construct region-specific and industry-specific economic multipliers, which are then further adjusted to reflect anticipated actual spending patterns within the specific geographic study area that is being evaluated. As a result, the economic impact estimates produced by IMPLAN are not generic, they reflect as precisely as possible the economic realities of the specific industry, and the specific study area, being evaluated.

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<sup>14</sup> IMPLAN v.3 is produced by Minnesota IMPLAN Group, Inc.



In the analysis that follows, these impact estimates are divided into three categories. First round direct impact measures the direct economic contribution of the entity being evaluated (e.g., own employment, wages paid, goods and services purchased, by the Norge Solar Facility). Second round indirect and induced impact measures the economic ripple effects of this direct impact in terms of business to business, and household (employee) to business, transactions. Total impact is simply the sum of the preceding two. These categories of impact are then further defined in terms of employment (the jobs that are created), labor income (the wages and benefits associated with those jobs), economic output (the total amount of economic activity that is created in the economy), and fiscal impact (the state and local tax revenues that are generated by this economic activity).

### Construction Phase

In conducting our analysis of the one-time economic and fiscal impact that the proposed Norge Solar Facility would have on James City County and the state of Virginia as a whole during the construction phase of the project, we employ the following assumptions:

- Total design, engineering, and construction costs are estimated to be \$12,750,000 for the Norge Solar Facility.<sup>15</sup>
- It is anticipated that approximately 13 percent of design, engineering, and construction expenditures would be with vendors in James City County,<sup>16</sup> and approximately 55 percent would be with vendors within Virginia.<sup>17</sup>
- Capital equipment costs are estimated to be \$18,500,000 for the Norge Solar Facility.<sup>18</sup>
- It is anticipated that no capital equipment will be purchased from vendors in James City County, and only \$1,850,000 will be purchased from vendors in Virginia.<sup>19</sup>

By feeding these assumptions into the IMPLAN model, we obtain the following estimates of one-time economic and fiscal impact.

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<sup>15</sup> *Data Source:* SunPower Corporation.

<sup>16</sup> *Data Source:* Based on previous experience with similar projects.

<sup>17</sup> *Data Source:* SunPower Corporation.

<sup>18</sup> *Data Source:* SunPower Corporation.

<sup>19</sup> *Data Source:* SunPower Corporation.

*James City County*

As shown in Table 1A, construction of the proposed Norge Solar Facility would directly provide a one-time pulse of approximately: 1) 11 full-time-equivalent jobs, 2) \$688,066 in labor income, and 3) \$1.7 million in economic output to James City County. Taking into account the economic ripple effects that direct investment would generate, we estimate that the total one-time impact on James City County would be: 1) 16 full-time-equivalent jobs, 2) \$889,513 in labor income, 3) \$2.3 million in economic output, and 4) \$68,155 in state and local tax revenue. Table 1B details the ten industries within James City County that would receive the largest benefit from that economic impact.

**Table 1A: One-Time Economic and Fiscal Impact of the Norge Solar Facility on James City County – Construction Phase (2017 Dollars)**

<b>Economic Impact:</b>			
	<b>Employment</b>	<b>Labor Income</b>	<b>Output</b>
<i>First Round Direct Economic Activity</i>	11	\$688,066	\$1,650,000
<i>Second Round Indirect and Induced Economic Activity</i>	5	\$201,447	\$616,341
<i>Total, Direct, Indirect, and Induced Economic Activity*</i>	<b>16</b>	<b>\$889,513</b>	<b>\$2,266,341</b>
<b>Fiscal Impact:</b>			
<i>Direct Payments to James City County by Norge Solar Facility</i>			
<i>Total State and Local Fiscal Impact</i>			<b>\$68,155</b>

\*May not sum due to rounding

**Table 1B: Top-Ten Industries Affected by Construction of the Norge Solar Facility on James City County (2017 Dollars)**

Industry	Employment	Labor Income	Output
Construction of new power and communication structures	11.4	\$688,066	\$1,650,000
Wholesale trade	0.3	\$16,566	\$57,205
Architectural, engineering, and related services	0.4	\$25,929	\$55,478
Real estate	0.2	\$4,459	\$51,933
Limited-service restaurants	0.2	\$4,665	\$19,621
Retail - Clothing and clothing accessories stores	0.2	\$5,011	\$17,842
Full-service restaurants	0.2	\$6,687	\$12,267
Retail - Nonstore retailers	0.1	\$1,258	\$10,689
Retail - Food and beverage stores	0.2	\$4,421	\$9,912
Retail - Miscellaneous store retailers	0.2	\$4,329	\$6,608

### *Virginia*

As shown in Table 2A, construction of the proposed Norge Solar Facility would directly provide a one-time pulse of approximately: 1) 55 full-time-equivalent jobs, 2) \$3.3 million in labor income, and 3) \$8.9 million in economic output to the state of Virginia as a whole. Taking into account the economic ripple effects that direct investment would generate, we estimate that the total one-time statewide impact on Virginia would be: 1) 89 full-time-equivalent jobs, 2) \$5.2 million in labor income, 3) \$14.3 million in economic output, and 4) \$465,714 in state and local tax revenue. Table 2B details the ten industries within Virginia that would receive the largest benefit from that economic impact.

**Table 2A: One-Time Economic and Fiscal Impact of the Norge Solar Facility on Virginia – Construction Phase (2017 Dollars)**

<b>Economic Impact:</b>			
	<b>Employment</b>	<b>Labor Income</b>	<b>Output</b>
<i>First Round Direct Economic Activity</i>	55	\$3,326,995	\$8,925,000
<i>Second Round Indirect and Induced Economic Activity</i>	35	\$1,863,212	\$5,361,755
<i>Total, Direct, Indirect, and Induced Economic Activity*</i>	<b>89</b>	<b>\$5,190,207</b>	<b>\$14,286,755</b>
<b>Fiscal Impact:</b>			
<i>Direct Payments to James City County by Norge Solar Facility</i>			
<i>Total State and Local Fiscal Impact</i>			<b>\$465,714</b>

\*May not sum due to rounding

**Table 2B: Top-Ten Industries Affected by Construction of the Norge Solar Facility in Virginia (2017 Dollars)**

<b>Industry</b>	<b>Employment</b>	<b>Labor Income</b>	<b>Output</b>
Construction of new power and communication structures	48.1	\$2,732,196	\$6,835,000
Power, distribution, and specialty transformer manufacturing	5.4	\$451,002	\$1,852,457
Wholesale trade	2	\$181,182	\$487,443
Architectural, engineering, and related services	2.6	\$286,535	\$476,897
Real estate	1.3	\$28,636	\$310,670

**Table 2B: Top-Ten Industries Affected by Construction of the Norge Solar Facility in Virginia (2017 Dollars)**

Industry	Employment	Labor Income	Output
Hospitals	0.9	\$67,110	\$145,114
Retail - Nonstore retailers	1	\$18,745	\$105,052
Limited-service restaurants	1.2	\$23,419	\$100,759
Retail - General merchandise stores	1.2	\$32,999	\$81,932
Full-service restaurants	1.3	\$30,339	\$61,315

### Ongoing Operations Phase

In conducting our analysis of the annual economic and fiscal impact that the proposed Norge Solar Facility would have on James City County and the state of Virginia as a whole during the ongoing operations phase of the projects, we employ the following assumptions:

- The Norge Solar Facility would spend approximately \$125,000 each year on the purchase of goods and services (*i.e.*, primarily for vegetation control and electrical maintenance).<sup>20</sup>

By feeding these assumptions into the IMPLAN model, we obtain the following estimates of annual economic and fiscal impact.

#### *James City County*

As shown in Table 3A, annual operation of the proposed Norge Solar Facility would directly provide approximately: 1) 1 full-time-equivalent job, 2) \$76,226 in labor income, and 3) \$125,000 in economic output to James City County. Taking into account the economic ripple effects that direct impact would generate, we estimate that the total annual impact on James City County would be: 1) 2 full-time-equivalent jobs, 2) \$108,345 million in labor income, 3)

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<sup>20</sup> Data Source: SunPower Corporation.



\$232,053 in economic output, and 4) \$11,883 in state and local tax revenue.<sup>21</sup> Table 3B details the ten industries within James City County that would receive the largest benefit from that economic impact.

**Table 3A: Total Annual Economic and Fiscal Impact of the Norge Solar Facility on James City County – Operations Phase (2017 Dollars)**

<b>Economic Impact:</b>			
	<b>Employment</b>	<b>Labor Income</b>	<b>Output</b>
<i>First Round Direct Economic Activity</i>	1	\$76,226	\$125,000
<i>Second Round Indirect and Induced Economic Activity</i>	1	\$32,119	\$107,053
<i>Total, Direct, Indirect, and Induced Economic Activity*</i>	2	<b>\$108,345</b>	<b>\$232,053</b>
<b>Fiscal Impact:</b>			
<i>Direct Payments to James City County by Norge Solar Facility</i>			
<i>Total State and Local Fiscal Impact</i>			<b>\$11,883</b>

\*May not sum due to rounding

<sup>21</sup> Payments to landowners are included in this estimate of economic and fiscal impact. However, it is important to note that the economic output figure presented here only includes facility payments for local services (primarily vegetation control and electrical maintenance) and household expenditures by landowners. It does not include the economic value of the electricity produced by the facility, which would be substantial.





**Table 3B: Total Top-Ten Industries Affected by Annual Operation of the Norge Solar Facility in James City County (2017 Dollars)**

Industry	Employment	Labor Income	Output
Electronic and precision equipment repair and maintenance	0.5	\$48,668	\$75,111
Landscape and horticultural services	0.9	\$27,794	\$50,300
Real estate	0	\$1,026	\$11,959
Wholesale trade	0	\$1,585	\$5,472
Limited-service restaurants	0	\$1,181	\$4,968
Full-service restaurants	0	\$1,615	\$2,962
Management of companies and enterprises	0	\$1,045	\$2,328
Retail - Food and beverage stores	0	\$949	\$2,128
Nursing and community care facilities	0	\$1,088	\$2,048
Offices of physicians	0	\$1,228	\$1,875

Table 3C provides the cumulative economic and fiscal impact of the project over its 35 year life. As these data show, in addition to providing a total of 2 annual full-time-equivalent jobs, the project would generate a cumulative impact of: 1) \$3.8 million in labor income, 2) \$8.1 million in output, and 3) \$415,905 in state and local tax revenue.<sup>22</sup>

<sup>22</sup> Payments to landowners are included in this estimate of economic and fiscal impact. However, it is important to note that the economic output figure presented here only includes facility payments for local services (primarily vegetation control and electrical maintenance) and household expenditures by landowners. It does not include the economic value of the electricity produced by the facility, which would be substantial.



**Table 3C: Cumulative Economic and Fiscal Impact of the Norge Solar Facility on James City County over the 35 Year Life of the Project – Operations Phase (2017 Dollars)**

<b>Economic Impact:</b>			
	<b>Employment</b>	<b>Labor Income</b>	<b>Output</b>
<i>First Round Direct Economic Activity</i>	1	\$2,667,910	\$4,375,000
<i>Second Round Indirect and Induced Economic Activity</i>	1	\$1,124,165	\$3,746,855
<i>Total, Direct, Indirect, and Induced Economic Activity*</i>	2	<b>\$3,792,075</b>	<b>\$8,121,855</b>
<b>Fiscal Impact:</b>			
<i>Direct Payments to James City County by Norge Solar Facility</i>			
<i>Total State and Local Fiscal Impact</i>			<b>\$415,905</b>

\*May not sum due to rounding

### Virginia

As shown in Table 4A, annual operation of the proposed Norge Solar Facility would directly provide approximately: 1) 1 full-time-equivalent jobs, 2) \$73,971 in labor income, and 3) \$125,000 in economic output to the state of Virginia as a whole. Taking into account the economic ripple effects that direct impact would generate, we estimate that the total annual statewide impact on Virginia would be: 1) 3 full-time-equivalent jobs, 2) \$131,105 in labor income, 3) \$297,495 in economic output, and 4) \$16,226 in state and local tax revenue.<sup>23</sup> Table 4B details the ten industries within Virginia that would receive the largest benefit from that economic impact.

<sup>23</sup> Payments to landowners are included in this estimate of economic and fiscal impact. However, it is important to note that the economic output figure presented here only includes facility payments for local services (primarily vegetation control and electrical maintenance) and household expenditures by landowners. It does not include the economic value of the electricity produced by the facility, which would be substantial.

**Table 4A: Annual Economic and Fiscal Impact of the Norge Solar Facility on Virginia – Operations Phase (2017 Dollars)**

<b>Economic Impact:</b>			
	<b>Employment</b>	<b>Labor Income</b>	<b>Output</b>
<i>First Round Direct Economic Activity</i>	1	\$73,971	\$125,000
<i>Second Round Indirect and Induced Economic Activity</i>	1	\$57,134	\$172,495
<i>Total, Direct, Indirect, and Induced Economic Activity*</i>	<b>3</b>	<b>\$131,105</b>	<b>\$297,495</b>
<b>Fiscal Impact:</b>			
<i>Direct Payments to James City County by Norge Solar Facility</i>			
<i>Total State and Local Fiscal Impact</i>			<b>\$16,226</b>

\*May not sum due to rounding

**Table 4B: Top-Ten Industries Affected by Annual Operation of the Norge Solar Facility in Virginia (2017 Dollars)**

<b>Industry</b>	<b>Employment</b>	<b>Labor Income</b>	<b>Output</b>
Electronic and precision equipment repair and maintenance	0.6	\$45,646	\$75,176
Landscape and horticultural services	0.8	\$28,626	\$50,345
Real estate	0	\$1,258	\$13,652
Wholesale trade	0	\$3,136	\$8,438

**Table 4B: Top-Ten Industries Affected by Annual Operation of the Norge Solar Facility in Virginia (2017 Dollars)**

Industry	Employment	Labor Income	Output
Hospitals	0	\$2,980	\$6,443
Limited-service restaurants	0	\$1,065	\$4,581
Full-service restaurants	0	\$1,323	\$2,673
Offices of physicians	0	\$1,699	\$2,524
Retail - General merchandise stores	0	\$980	\$2,433
Employment services	0	\$907	\$1,612

Table 4C provides the cumulative economic and fiscal impact of the project over its 35 year life. As these data show, in addition to providing a total of 3 annual full-time-equivalent jobs, the project would also generate a cumulative impact of: 1) \$4.6 million in labor income, 2) \$10.4 million in output, and 3) \$567,910 in state and local tax revenue.<sup>24</sup>

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<sup>24</sup> Payments to landowners are included in this estimate of economic and fiscal impact. However, it is important to note that the economic output figure presented here only includes facility payments for local services (primarily vegetation control and electrical maintenance) and household expenditures by landowners. It does not include the economic value of the electricity produced by the facility, which would be substantial.



**Table 4C: Cumulative Economic and Fiscal Impact of the Norge Solar Facility on Virginia over the 35 Year Life of the Project – Operations Phase (2017 Dollars)**

<b>Economic Impact:</b>			
	<b>Employment</b>	<b>Labor Income</b>	<b>Output</b>
<i>First Round Direct Economic Activity</i>	1	\$2,588,985	\$4,375,000
<i>Second Round Indirect and Induced Economic Activity</i>	1	\$1,999,690	\$6,037,325
<i>Total, Direct, Indirect, and Induced Economic Activity*</i>	<b>3</b>	<b>\$4,588,675</b>	<b>\$10,412,325</b>
<b>Fiscal Impact:</b>			
<i>Direct Payments to James City County by Norge Solar Facility</i>			
<i>Total State and Local Fiscal Impact</i>			<b>\$567,910</b>

\*May not sum due to rounding

### Current Use

In this portion of the section, we provide a benchmark for the previous estimates of the fiscal contribution that the proposed Norge Solar Facility would make to James City County, by estimating the alternative fiscal contributions that this site makes to the County in its current agricultural use or could make if it were developed as residential property.



## *Current Agricultural Use*

In conducting our analysis of the fiscal impact that the proposed Norge Solar Facility site has on James City County in its current agricultural use, we employ the following assumptions:

- The proposed Norge Solar Facility would be situated on a 225-acre tract of land.
- This property is currently used for agricultural production, however a significant portions is currently timbered.
- Average revenue per acre for Virginia farmland is approximately \$456.10.<sup>25</sup>

By feeding these assumptions into the IMPLAN model, we obtain the following estimates of fiscal impact. As shown in Table 5:

- In its current agricultural use this property generates approximately \$2,478 in state and local tax revenue annually within James City County.<sup>26</sup>
- For purposes of comparison, the cumulative fiscal impact of this property in its current agricultural use over the same 35 year project life used in Table 3C would be approximately \$86,730 in state and local tax revenue.<sup>27</sup>

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<sup>25</sup> *Data Source:* Estimated based on data from the Virginia Department of Agriculture and Consumer Services.

<sup>26</sup> Estimated state and local fiscal impact includes approximately \$1,845 in direct payments to James City County from the Norge Solar Facility property in its current agricultural use. That estimated \$1,845 in direct payments was derived by applying James City County's current real property tax of \$0.84 per \$100 of assessed value to an estimated \$1,000 per acre assessed value for the 225 acre site.

<sup>27</sup> Estimated state and local fiscal impact includes approximately \$64,575 in direct payments to James City County from the Norge Solar Facility property in its current agricultural use. That estimated \$64,575 in direct payments was derived by applying James City County's current real property tax of \$0.84 per \$100 of assessed value to an estimated \$1,000 per acre assessed value for the 225 acre site, times 35 years.

**Table 5: Estimated Fiscal Impact of the Norge Solar Facility Site on James City County in its Current Agricultural Use (2017 Dollars)**

<b>Annual Fiscal Impact:</b>	
<i>Direct Payments to James City County from Property</i>	\$1,845
<i>Total State and Local Fiscal Impact</i>	<b>\$2,478</b>
<b>Cumulative Fiscal Impact Over 35 Years:</b>	
<i>Direct Payments to James City County from Property</i>	\$64,575
<i>Total State and Local Fiscal Impact</i>	<b>\$86,730</b>

### *Alternative Residential Use*

A key step in estimating the fiscal impact that the property would have on James City County if it were developed as a residential community is to ascertain the net fiscal impact that households have on the County. To accomplish that task, we rely heavily on data from the Virginia Auditor of Public Accounts on per capita county revenues and expenditures. As shown in Table 6, based on those data, we have determined that the likely annual per capita revenue impact of a new resident in James City County is \$1,525, while the likely annual per capita expenditure impact is \$2,890, making the net annual fiscal impact minus **(\$1,365)**.

**Table 6: Estimated Net Per Capita Fiscal Impact of James City County Residents**

Revenue Source	Per Capita Revenue
Real Property Tax <sup>28</sup>	\$1,105
Personal Property Tax <sup>29</sup>	\$270
Local Sales and Use Tax <sup>30</sup>	\$148
Motor Vehicle Registration Tax <sup>31</sup>	\$2
<b>Total</b>	<b>\$1,525</b>
Expenditure Source	Per Capita Expenditure
Schools <sup>32</sup>	\$1,685
All Other County Services <sup>33</sup>	\$1,205
<b>Total</b>	<b>\$2,890</b>
<b>NET FISCAL IMPACT</b>	<b>(\$1,365)</b>

<sup>28</sup> Assumes that 250 lots, valued at \$375,000, would generate a total of \$787,500 in annual real property tax, based on James City County’s current real property tax rate of \$0.84 per \$100 of assessed value. Further assumes that, consistent with data reported through the U.S. Census Bureau’s “2014 American Community Survey,” the average family household in James City County is comprised of 2.85 persons, which times 250 lots, yields 713 residents at full build out. The per capita figure is derived by dividing \$787,500 by 713 residents.

<sup>29</sup> *Data Source:* Virginia Auditor of Public Accounts, “Comparative Report of Local Government Revenues and Expenditures for the Fiscal Year Ended June 30, 2015,” amended September 9, 2016.

<sup>30</sup> *Data Source:* Virginia Auditor of Public Accounts, “Comparative Report of Local Government Revenues and Expenditures for the Fiscal Year Ended June 30, 2015,” amended September 9, 2016.

<sup>31</sup> *Data Source:* Virginia Auditor of Public Accounts, “Comparative Report of Local Government Revenues and Expenditures for the Fiscal Year Ended June 30, 2015,” amended September 9, 2016.

<sup>32</sup> *Data Source:* Virginia Auditor of Public Accounts, “Comparative Report of Local Government Revenues and Expenditures for the Fiscal Year Ended June 30, 2015,” amended September 9, 2016.

<sup>33</sup> *Data Source:* Virginia Auditor of Public Accounts, “Comparative Report of Local Government Revenues and Expenditures for the Fiscal Year Ended June 30, 2015,” amended September 9, 2016.



In conducting our analysis of the fiscal impact that the proposed Norge Solar Facility site would have on James City County in an alternative residential use, we employ the following assumptions:

- The proposed Norge Solar Facility would be situated on a 225-acre tract of land.
- This property could be developed to include approximately 250 residential lots which, with home, could sell for approximately \$375,000.<sup>34</sup>
- The average number of persons per family household in James City County is 2.85 and at full build out the project site would have approximately 713 residents.<sup>35</sup>
- Average annual family household income in James City County is \$90,964 and total annual household income for the development as a whole would be \$22,741,000.<sup>36</sup>
- As derived in Table 6, the net fiscal impact of a new James City County resident is minus **(\$1,365)** and the total net annual fiscal impact for the development as a whole would be minus **(\$972,375)**.<sup>37</sup>

By feeding these assumptions into the IMPLAN model, we obtain the following estimates of fiscal impact. As shown in Table 7:

- In an alternative residential use the property would generate approximately minus **(\$262,655)** in state and local tax revenue annually within James City County.<sup>38</sup>
- For purposes of comparison, the cumulative fiscal impact of this property in an alternative residential use over the same 35 year project life used in Table 3C would be approximately minus **(\$9.2 million)** in state and local tax revenue.<sup>39</sup>

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<sup>34</sup> Data Source: SunPower Corporation.

<sup>35</sup> Data Source: U.S. Census Bureau, "2014 American Community Survey." Total residents is derived as 2.85 times 250 lots.

<sup>36</sup> Data Source: U.S. Census Bureau, "2014 American Community Survey." Total household income is derived as \$90,964 times 250 households.

<sup>37</sup> Total net annual fiscal impact is derived as minus **(\$1,365)** times 713 residents.

<sup>38</sup> Estimated state and local fiscal impact includes approximately minus **(\$972,375)** in net fiscal impact to James City County from the Norge Solar Facility property in an alternative residential use. That estimated minus **(\$972,375)** in net fiscal impact is derived from calculations presented in Table 6, times 713 residents.

<sup>39</sup> Estimated state and local fiscal impact includes approximately minus **(\$34.0 million)** in direct payments to James City County from the Norge Solar Facility property in an alternative residential use. That estimated minus **(\$34.0 million)** in net fiscal impact is derived from calculations presented in Table 6, times 713 residents, times 35 years.

**Table 7: Estimated Fiscal Impact of the Norge Solar Facility Site on James City County in Alternative Residential Use (2017 Dollars)**

<b>Annual Fiscal Impact:</b>	
<i>Direct Payments to James City County from Property</i>	<b>(\$972,375)</b>
<i>Total State and Local Fiscal Impact</i>	<b>(\$262,655)</b>
<b>Cumulative Fiscal Impact Over 35 Years:</b>	
<i>Direct Payments to James City County from Property</i>	<b>(\$34,033,125)</b>
<i>Total State and Local Fiscal Impact</i>	<b>(\$9,192,927)</b>

**Comparison of the Proposed Norge Solar Facility with Current and Alternative Uses**

Comparing the state and local fiscal impact estimates in Table 3A and 3C of the proposed Norge Solar Facility on James City County, to the state and local fiscal impact estimates in Table 5 of the project site in its current agricultural use, and in Table 7 of the project site in an alternative residential use, shows that the proposed Norge Solar Facility would provide:

- *Proposed Norge Solar Facility vs. Current Agricultural Use*: approximately \$9,405 in additional state and local fiscal impact in its first full year of operation, and 2) approximately \$329,175 in additional state and local fiscal impact over the 35 year life of the project.
- *Proposed Norge Solar Facility vs. Alternative Residential Use*: approximately \$274,538 in additional state and local fiscal impact in its first full year of operation, and 2) approximately \$9.6 million in additional state and local fiscal impact over the 35 year life of the project.

**Table 8: State and Local Fiscal Impact of the Norge Solar Facility Compared to the Proposed Project Sites in their Current Agricultural Use (2017 Dollars)**

	First Year State and Local Fiscal Impact	Cumulative State and Local Fiscal Impact over 35 Year Life of Project
<b>Proposed Norge Solar Facility</b>	\$11,883	\$415,905
<b>Current Agricultural Use</b>	\$2,478	\$86,730
<b>NET DIFFERENCE</b>	<b>\$9,405</b>	<b>\$329,175</b>
<b>Proposed Norge Solar Facility</b>	\$11,883	\$415,905
<b>Alternative Residential Use</b>	(\$262,655)	(\$9,192,927)
<b>NET DIFFERENCE</b>	<b>\$274,538</b>	<b>\$9,608,832</b>

## Other Considerations

One of the methodological problems associated with conducting economic impact assessments is that not all of the economic effects associated with a given enterprise can easily be captured and quantified in standard simulation models. To compensate for this limitation, in this portion of the section we attempt to at least qualify some of the potential economic effects associated with the proposed Norge Solar Facility that cannot be easily quantified.

### State Energy Policy

The Norge Solar Facility would be entirely consistent with Virginia’s stated energy policy objectives as presented in Governor McAuliffe’s 2014 *Virginia Energy Plan*.<sup>40</sup> The very first goal of which is to “accelerate the development of renewable energy sources in the Commonwealth to ensure a diverse fuel mix,” because doing so “will lead to economic prosperity through increased jobs and environmental health through lower harmful emissions.”

<sup>40</sup> *Virginia Energy Plan*, Virginia Department of Mines, Minerals, and Energy, October 1, 2014.



## Encouraging Economic Development

Industrial development prospects with high energy needs are becoming increasingly sensitive to the proportion of their energy requirements that are produced through renewable sources. A good example of this is data centers, a very high-growth, very high-wage industry that provides the technological backbone of the modern economy. As a case in point, in November of 2015 plans were announced to construct the Amazon Solar Farm U.S. East, an 80-megawatt solar facility that will be located on Virginia's Eastern Shore in Accomack County, Virginia. Construction of that facility was made possible as a result of a long-term power purchase agreement with Amazon Web Services, an affiliate of Amazon's cloud computing business. As this example demonstrates, renewable energy is becoming an important asset for localities in promoting technology-driven economic development.

*The estimates provided in this report are based on the best information available and all reasonable care has been taken in assessing that information. However, because these estimates attempt to foresee circumstances that have not yet occurred, it is not possible to provide any assurance that they will be representative of actual events. These estimates are intended to provide a general indication of likely future outcomes and should not be construed to represent a precise measure of those outcomes.*

## Norge Solar Facility FAQ

Response to comments received from the Norvalia neighborhood community meeting of 5/3/17. Questions and SunPower responses are provided in the order received. They are numbered to allow for convenient referral to answers to similar questions.

### *1. Any guarantees our property values won't go down?*

No data exists to suggest this type of project impacts property values negatively. Once operational, this is a clean, quiet facility, with minimal traffic, and no noise or emissions. In some ways, it will be less intrusive than farming operations (no dust or sedimentation and runoff due to annual cultivation), or other ways the site may be developed (ongoing traffic due to residential development, for example). SunPower will make sure there is a natural (existing or new) vegetation screen between the project and neighboring properties so as not to adversely impact those property's view sheds to the extent practicable.

While the potential impacts of a solar farm on neighboring property values have not been studied in-depth, numerous studies found the impact of wind energy generation on neighboring property values to be negligible. As solar farms have lesser impacts than wind farms (i.e., solar farms do not cast a shadow on neighboring properties, do not cause light flicker, and do not have the same visual impact as wind farms), the impacts on property values caused by solar farms are anticipated to be less than the impacts of wind farms. (Source: NREL [https://www.nrel.gov/tech\\_deployment/state\\_local\\_governments/blog/top-five-large-scale-solar-myths](https://www.nrel.gov/tech_deployment/state_local_governments/blog/top-five-large-scale-solar-myths))

Additionally, research from the US Department of Energy's Lawrence Berkley National Laboratory on other forms of renewable energy – namely wind farms - shows no evidence to suggest large scale wind farms adversely affect property values. <http://www.awea.org/property-values> The article and statistics relating to property values cited in the WY Daily article is specifically about large (>100 megawatts) coal and natural gas power plants, which have significantly different and greater visual impacts, air emissions, noise, light pollution, water use and emission characteristics.

## *2. What negatives are there from a solar farm operation?*

Solar farms reliably produce cost-competitive, emission-free renewable power. They operate quietly, and have no fuel requirements beyond sunlight. SunPower solar farms are designed to minimize land impact. Minimal impact generally results in enhanced natural habitat for native plant species and wildlife alike.

In the view of some, negatives may include the fact that solar plants only generate electricity during the day, requiring storage and/or supplemental energy sources to provide 24/7 power. Also, operations and maintenance on solar plants is minimal, creating just a few jobs during the plant's operational life.

## *3. Address concerns of electromagnet hypersensitivity and glare of solar panels against aircraft*

Similar to household appliances, solar facilities generate electro-magnetic fields that dissipate with increasing distance and pose no health risk nor concerns to neighboring residents. Solar panels don't cause glare. Rather than reflecting light, solar panels generate electricity by absorbing light. In addition, SunPower solar panels use non-reflective glass. They are FAA and USAF-approved, and have been installed at and near airports and US Air Force bases. Reference:

[https://www.nrel.gov/tech\\_deployment/state\\_local\\_governments/blog/top-five-large-scale-solar-myths](https://www.nrel.gov/tech_deployment/state_local_governments/blog/top-five-large-scale-solar-myths)

## *4. Is there a possibility to tap into the power being produced for those that live in the neighborhood being affected?*

The Norge Solar facility will produce wholesale power, most likely for a regional electric utility. The project is not a retail electric distributor, and cannot sell power at a retail level to individual customers. VA state law prohibits the project from doing so.

However, we encourage homeowners to investigate rooftop solar power systems for their homes. It can be a great way to reduce electricity costs as well as your family's carbon footprint. Information on residential SunPower systems can be found at [www.sunpower.com](http://www.sunpower.com).

*5. Would they be paving/improving the roads, curbs, adding sidewalks? ☐*

Neither VDOT nor the County has seen the need for nor requested such improvements for this project, as it is anticipated that the existing road network is suitable. However, SunPower has made a commitment to repair roads as and if needed, and it is required by Special Condition No.4 to the proposed Special Use Permit. ☐ Depending upon the ultimate final access way into the project site approved by the County (via Farmville Lane or via Oslo Court), there may be either localized road widening around the corner of Farmville Lane, or shoulder widening immediately adjacent to our driveway entrance onto Oslo Court, both likely via a gravel surface. ☐

*6. What is the benefit to the neighborhood? There is little tax revenue, will be an eyesore.*

The Norge Solar Facility will bring a number of benefits to James City County and to Virginia. These many benefits include:

*Jobs*

- Approximately 80 construction jobs will be created over the 6-to 9-month construction timeline.
- The facility will employ 1-3 permanent operational personnel, plus additional contractors for operations and maintenance.

*Revenue Generation and Economic Benefits*

- The project will be a source of sales tax for both County and Virginia, direct and indirect, both during construction and operations.
- Construction and operation of the project will generate economic development for regional businesses, including engineering and construction, consulting, landscaping, and hospitality firms. This “ripple” economic effect in James City County is estimated at over \$2 million during construction and over \$200,000 annually, and in Virginia at over \$14 million during construction. ☐
- Additional details on economic impact of the project is quantified in the report entitled *Mangum Economics, “The Economic and Fiscal Contribution That The Norge Solar Project Will Make to James City County and Virginia, April 2017,”* which was submitted to JCC County staff on May 3, 2017, and can be locate here

<provide link>. ☒

### *Community Benefits*

- The project stimulates economic development in the County with minimal requirements for JCC facilities or services. Although fiscal (tax) contributions to JCC are moderate, the project has significantly less fiscal impact than an alternative of developing the site with residential units, which by one estimate could cost the County close to \$300,000 annually. ☒
- Although the site would be developed with solar, the project offers a long-term open land preservation strategy for the County as the site could be returned to open agricultural land after decommissioning.
- SunPower will seek to support work force training programs for solar energy and related technical jobs and has already met with Thomas Nelson Community College to explore such cooperative efforts. ☒
- SunPower seeks to educate the public about solar energy and would work cooperatively with schools and other organizations in this manner. ☒

### *Environmental Benefits* ☒

- The project will produce enough clean, efficient, reliable renewable power for up to 4,000 Virginia homes in the region. ☒
- Construction of the project supports Virginia's renewable energy goals. ☒
- The renewable energy produced will offset annual carbon dioxide emissions approximately equivalent to removing 10,000 cars from Virginia's highways, 270 railcars of coal, or 114 million lbs. of carbon emissions (Source: US EPA).

7. *Will there be a zoning change?* ☒ *No zoning change will be required.*

The project will be permitted via a special use permit. ☒

8. *There was no proper notification of the whole neighborhood.*

SunPower voluntarily hosted a public informational session on the project November 17, 2016 at the Norge Elementary School. The session was advertised in the Daily Press and Virginia Gazette, via direct mail invitation to residents adjacent to the project site, and email invitation to various County staff. James City County held a public hearing on the project at the Planning Commission meeting April 5, 2017, which was noticed to



nearby residents as required by JCC regulations. An additional public hearing notice complying with JCC regulations was issued in April 2017 in anticipation of the public hearing to be held at the May 9 Board of Supervisors Meeting. The application and relevant project information has been on display on the James City County website since the time of application in December 2016. In response to further concerns by residents, SunPower voluntarily deferred our Project hearing scheduled for May 9, to provide adequate time to address these issues. SunPower also voluntarily held an additional neighborhood public meeting at the middle school in Toano on June XX, 2017 to hear and respond to neighbor's concerns. This meeting was also noticed in the Daily Press and Virginia Gazette, via direct mail invitation to residents near project site, and email invitation to various County staff. There will be an additional public hearing notice complying with JCC regulations to be issued in anticipation of the public hearing to be held at the October 10 Board of Supervisors Meeting

*9. Access will be controlled*

SunPower will install 7' fencing around the entire project to limit public access. This is required per safety code. We will likely install chain-link fencing given the concerns we've heard from the community about dogs being able to get through ag-style fencing. Access will be maintained and controlled to a neighboring property via Norge Farm Lane.

*10. Concerns of water usage*

The only water needed to operate the proposed project is for washing the panels. SunPower will wash the panels occasionally to optimize performance. SunPower's robotic panel cleaning technology uses approximately 90 percent less water than traditional cleaning methods. Water use is estimated at approximately 6500 gallons for each washing, up to two times per year, or a total of 13,000 gallons per year. That's the equivalent of less than two tractor trailer (8000gallon) tank trucks, or four smaller tank trucks of water. Water would be delivered via truck from an off-site source.

*11. Shouldn't all the owners of Norvalia be compensated if the new road construction ruins our neighborhood?*

There will not be any new road construction in the Norvalia neighborhood. The project will utilize the existing roads. There may be a potential widening of the corner of Farmville Lane if that route is required by the County for large vehicular access, and if SunPower can obtain necessary access easements in this area. SunPower is committed via Special Condition No. 4 to prepare a Construction Traffic Mitigation Plan and obligated to make any necessary road repairs due to potential damage from construction traffic.

12. *Are there any subsidies that will be given by the federal government for this project?*

There are no direct cash subsidies from the federal government to the project, but there is a federal tax credit that the project would be eligible for. This production tax credit is available to both solar- and wind-powered renewable energy projects.

13. *How will the power be stored and transmitted?*

Electricity generated by the facility will not be stored. Rather, it will be transmitted to the existing Dominion distribution system in the area. The project will connect to the existing distribution line that currently feeds the house on the site. While Dominion may upgrade this line and its distribution lines running between the site and the Lightfoot substation approximately one mile to the east, those upgrades will be within typical distribution system specifications (e.g., typical distribution system pole heights and conductor configuration) and likely within Dominion's existing right-of-ways and approvals for line construction and maintenance in the area. The project will not connect to the nearby high voltage transmission line to the south of the site.

14. *Solar generators create noise and electromagnetic fields. How large are these expected to be?*

No noise is generated by the solar panels themselves. There will be approximately 8 inverters located at AC stations throughout the site that will produce a sound level that is similar to a refrigerator. This noise is not expected to be audible (e.g., heard above ambient noise) at the site boundary. Also, none of these sources operate at night during lower ambient noise conditions when the PV facility is completely shut down. See

response to question No. 3 on electromagnetic fields. ☐

15. *Will Dominion Power have a say?* ☐

Dominion will have a say in the project in one and potentially two ways. First, the project is interconnecting to the Dominion distribution system, so the project must comply with all of Dominion's procedural, technical, and commercial requirements and study processes to permit such a connection. Dominion is currently working at SunPower's request to study the interconnection of the project to their system. ☐

Second, if Dominion chooses to either buy the project (and thus be the owner/operator) or buy power from the project (in which case SunPower would build/own/operate), Dominion could have a say in how the project was designed, constructed, or operated, depending upon the exact nature of that arrangement with Dominion. However, at this time, there are no such agreements in place with Dominion.

16. *What is the potential impact on the environment and wildlife in the surrounding area?* ☐

There will be no significant adverse impacts to the environment or wildlife from construction or operation of this facility. SunPower has evaluated, studied, or documented the numerous RPA buffers, steep slope buffers, prepared a Threatened and Endangered species study/assessment, a Historical and Cultural Resource study, and Architectural study, and is taking steps to ensure stormwater and erosion control accommodation are in compliance with JCC and VDEQ, and DCR standards.

17. *Increase in traffic will have a negative impact on the development. We have a large number of daily walkers. Using Farmville Rd. divides the community physically. Is it possible to provide access through a commercial area?* ☐

There are no alternative or commercial area routes available to provide access to/from the property to Route 60. For the reasons described below, SunPower feels that access via Farmville Lane to Route 60 is suitable. ☐

Increased traffic impacts will be limited to the duration of the facility construction.

Thereafter, traffic will be minimal and comprised of only a few vehicular trips (e.g. pickup truck size/style vehicles) daily and thus not impact the development. ☐

SunPower understands there are neighborhood resident concerns regarding site access during construction, and has actively worked to find ways to mitigate these concerns. SunPower, together with County staff, have agreed to conditions tied to the approval of the special use permit in order to mitigate those concerns. One significant new mitigation strategy is to significantly reduce vehicular traffic during construction by procuring an off-site parking lot for the majority of construction workers. From this location, laborers and employees will be transported to the construction site via a shuttle bus. Site foremen, specialty contractors, and vehicles hauling equipment, will not use this service and will travel to/from the project site independently.

Our other proposed mitigation includes several measures such as limiting construction hours to between 7am and 7 pm, scheduling deliveries to avoid school bus pick-up and drop-off time schedules in the neighborhood, and a commitment to repair roads as and if needed. The VDOT has approved our initial application regarding site access, and both the County and VDOT have reviewed our Construction Access and Traffic Management Plan, which can be viewed here [<provide link>](#). Other special conditions include requirements to submit Construction Traffic Mitigation Plan to VDOT and County staff for approval, and a Construction Management and Mitigation Plan to County staff for approval. We will also have to obtain a Driveway Entrance permit from VDOT. ☐

And finally, SunPower will develop in conjunction with JCC public safety personnel an Emergency Management Plan for the project. SunPower believes that with our current proposal and through development of these plans in conjunction with County, VDOT, and emergency management personnel the site can be safely accessed with as minimal disruption to normal neighborhood activities as practicable. Although construction traffic will occur during the anticipated 6 to 9 month construction schedule, the bulk of such traffic will occur during a peak 3-4 month primary construction period. SunPower would also note that once operational, traffic will be extremely limited (a few maintenance vehicle/pickup truck trips a day), and much less that if the site were developed in an alternative way (e.g. residential subdivision).

18. *Will the revenue created stay in the community? If so, how many jobs are created and are they short or long term?* ☐

#### Revenue Generation and Economic Benefits ☐

- The project will be a source of sales tax for both County and Virginia, direct and indirect, both during construction and operations. ☐
- Construction and operation of the project will generate economic development for regional businesses, including engineering and construction, consulting, landscaping, and hospitality firms. This “ripple” economic effect in James City County is estimated at over \$2m during construction and over \$200,000 annually, and in Virginia at over \$14m during construction. ☐
- Additional details on economic impact of the project is quantified in the report entitled Mangum Economics, “The Economic and Fiscal Contribution That The Norge Solar Project Will Make to James City County and Virginia”, April 2017” which was submitted to JCC County staff on May 3, 2017. ☐

#### Jobs ☐

- Approximately 80 construction jobs will be created over 9-month construction timeline. ☐
- The facility will employ 1-3 permanent operational personnel, plus additional contractors for operations and maintenance. ☐

19. *Would the electromagnetic field have a negative impact on satellite usage or local equipment in schools?* ☐

No. As described in response to Question No. 3 above, equipment in solar facilities generate electro-magnetic fields similar to household appliances within close proximity, which dissipate with increasing distance. Such fields pose no health risk nor concerns to neighboring residents and will not affect satellite reception nor equipment in schools. ☐

20. *How is it possible to protect children waiting for school buses from commercial vehicles?*

SunPower intends to ensure the safety of neighbors in a number of ways. First, SunPower has committed to providing off-site parking for the majority of construction workers to significantly reduce the anticipated number of vehicular trips along Farmville Lane. SunPower has also committed to schedule large vehicle equipment deliveries to avoid hours when school busses are operating in the neighborhood. Furthermore, SunPower will commit to imposing a 15mph speed limit through the Norvalia neighborhood on all employees, contractors, and suppliers to the project. SunPower will also commit to posting safety personnel during high traffic periods. Finally, SunPower is required to submit a Construction Traffic Mitigation Plan to VDOT and James City County for review and approval, which will address both safety issues and road repair commitments. See also response No. 17.

21. *Why has there been no notice to potentially affected residents about their proposed plan?*

See response to No. 8 above.

22. *Our property values have just returned to pre-2008 values. Research indicates that other solar farms of this size have in some areas caused real estate values to drop by 5-10%.*

See response to No. 1 above. SunPower is not aware of any such credible research available that indicates such real estate value declines in the vicinity of solar farms.

23. *Visibility for traffic pulling from Farmville onto Richmond Rd is already poor. It is especially difficult to see traffic coming from Toano. What would be done to make entering and exiting the development safe?*

SunPower has evaluated these sight distances as part of the Construction Access and Traffic Management Plan **<found here>**. To assist in large vehicles turning into and exiting Farmville Lane, SunPower will use a construction traffic flagger during peak construction periods. SunPower anticipates further details to be worked out in

conjunction with the County and VDOT when we prepare our final Construction Traffic Mitigation Plan as required by Special Condition No. 4 to our permit approval. See also answer to 17 above. ☐

24. *If the sound of one cell is equivalent to one refrigerator, what would be the sound of 200 refrigerators?*

See response to No. 14 above. No noise is generated by a PV panel nor cells comprising that panel. There will be approximately 8 inverters which can generate the low-level noise as indicated in the prior response. However, even with these numbers, the sound of this equipment will be inaudible to neighboring properties. ☐

25. *There are about 3 1/2 hours of the day that buses are not driving through the neighborhood (not including early dismissal days). How are you going to ensure the safety of children as they wait for the bus in the dark or walk to and from the bus stop?* ☐

SunPower has committed to schedule deliveries to avoid school bus times in the neighborhood. See answers to 17 and 20 above. ☐

26. *This is a residential neighborhood not a business park. What benefit does this neighborhood have by allowing a solar farm in our back yard?* ☐

See response No. 6. ☐

27. *We enjoy the quiet dark nights to star watch. The noise will take over the natural sounds and the lights/glare will inhibit star gazing.*

The facility does not operate at night and thus produces no noise. See answer No. 14. Additionally, there will be no lighting onsite.

28. *I do not feel that there was adequate communication from SunPower or Whisper Ridge, LLC to our community about the increase of traffic for 9 months. Farmville Lane is our only paved entry and exit to the neighborhood.*  
☐See answer No. 8 above regarding notice.

See answers No. 17 and 20 on access. ☒

29. *The traffic increase on Farmville is a large concern because the road is narrow now. If meeting a school bus, I have to move over onto grass. ☒*

School buses are typically 8 to 8.5 feet wide. The standard width for a tractor trailer standard is 8.5 feet. Neighbors can expect passing a trailer on Farmville Rd to be similar to current encounters with school buses. ☒Also, see answers to Nos. 17 and 20. ☒

30. *The people coming through the neighborhood. We have children in middle and high school whose parents aren't waiting with them for the bus. Who are these people who will be coming through?*

Yes the same risk is a potential if a residential neighborhood is built back there from unknown construction workers. ☒SunPower will commit to running background checks on all construction employees and contractors. ☒

31. *Will we need a light for the increase in traffic to be able to enter Farmville Lane? There are times of day now that I walk my daughter to ballet because getting out of our neighborhood into the flow of traffic takes longer than walking her there. And with an increase of 60 to 80 people in the neighborhood, how difficult will it make it to leave the neighborhood when it's quitting time?☒*

See answer No. 23. ☒


32. *Is this farm turn key? On their site SunPower has two options: ☒<https://us.sunpower.com/utility-scale-solar-power-plants/?ab=headerlv1%7CPower-Plants> One option is turn key. Is this what Whisper Ridge is doing? And if turnkey, what happens if no utility company willing buys the energy from them? Who is responsible is this goes belly up for removing the solar panels so that they do not break down leaking the components used to make them into our groundwater. Solar panels can't be ☒taken to a landfill, they have to be recycled.*




SunPower will not build this project on a “speculative basis”. SunPower will only build the project if either (1) a utility or other wholesale electric company enters into a long term (eg, 15-25+years) contract to purchase the energy produced, or (2) a utility acquires the project (and in that case uses the energy produced for itself or its customers). Hence, the likelihood of insolvency in the example above is extremely remote.

SunPower is responsible for decommission the project at the end of the project’s life and returning the site to its pre-construction condition as nearly as practicable. Special condition 15 of our permit requires, prior to construction, submission of a decommissioning plan for review and approval by the County and surety to the County to ensure funds are available for decommissioning in the unlikely event of failure to comply with decommissioning requirements. Decommissioning of the facility will include recycling of components as appropriate and disposal off-site as needed.

SunPower’s system is made mostly of silicon, glass, aluminum, & galvanized steel and contains no hazardous materials, and hence has no ability to introduce toxic materials to the site. SunPower even uses lead-free solder in its solar cells. The medium voltage transformers associated with the inverters contain FR3 oil, which is equivalent to a cooking grade biodegradable oil, and poses no environmental threat.

33. *SunPower says the P-series panels are mutlicrystalline silicon. Is this CdTe or CIGS solar cells? Or are they using Gallium Arsenide? Silicon needs to be beefed up to take the sun's energy and turn it into energy we can use.*  
<https://www.nrel.gov/pv/cadmium-telluride-solar-cells.html> 

SunPower’s P-series panels do not use CdTe, CIGS or Gallium Arsenide. Analytical testing (including test results for Toxicity Characteristic Leaching Procedure which is used to determine hazardous waste code under RCRA) conducted in 2016 resulted in “PASS” results, meaning the P-Series module did not exceed threshold amounts that would render it a hazardous waste per US Federal requirements. 

34. *The panels have to be cleaned. On the SunPower site, they show a video of a self cleaning machine. How loud is this? Is it more than a hum? Can we hear one? Do they have inverters ? They mention using 75% less water, but what is*

*that number exactly? How will this affect the James City County water supply?*

☐

SunPower's solar panel cleaning robots produce negligible noise that is not expected to be audible (e.g., heard above ambient noise) at the site boundary. ☐See response No.

10. There will be no impact to the James City County water supply. ☐

35. *What happens if this becomes the situation: "Smith Hollow is a quiet neighborhood in Edgartown where the ambient sounds include distant traffic and breeze moving through the trees. But this past summer, the installation of a new municipal solar array added a new sound to the mix: incessant humming that all but drowns out the other sounds at some Smith Hollow residences. As soon as the solar project went live, inverters, the part of the system that converts direct current from the sun to alternating current, began emitting noise on sunny days. Neighbors complained, and the town hired an expert to investigate." These investigations take time. This will be extremely inconvenient to those that live closest to the humming.*

[https://vineyardgazette.com/news/2014/09/25/solar-panels-create-noise-  
nuisance-edgartown](https://vineyardgazette.com/news/2014/09/25/solar-panels-create-noise-nuisance-edgartown)

See response No. 14. The components that SunPower uses, and those typically used for facilities of this type, will not produce noise that will be audible above background at the project boundary.

SunPower is not aware of this isolated incident cited, but proposes that either the reporting is inaccurate or this particular incident was a result of faulty project design or equipment.

36. *I understand that the developer is responsible for repaving/fixing the roads that they use. How will we make sure that they don't pull a stunt as the Pottery did where they added things then "apologized" later:*

<http://wydaily.com/2012/12/06/local-builder-sues-pottery-for-millions/>  
*"Recently the Pottery was cited by James City County with a zoning violation for the types of external lights used on the property. The Pottery was appealing the violation but withdrew their appeal prior to the last Board of Supervisors*

*meeting on Nov. 27."* ☐

SunPower is required per Special Condition 4 to submit a Construction Traffic Mitigation Plan to VDOT and James City County for review and approval, which will address road repair commitments, and complete such repairs within 6 months of operations. This requirement is tied to the SUP conditions as well as the application and permit for the Construction Entrance needed to serve the site. As a part of the construction entrance permit being approved by VDOT, an assessment of existing pavement conditions and potential impacts from construction traffic is conducted that will result in the development of a preliminary cost estimate for anticipated repairs. SunPower will be required to post the surety necessary to cover the costs of removal and restoration of the roadway. ☐

37. *What species of sapling is being planted? How long will they take to grow to hide 14 feet tall panels?*☐

An exact evergreen species has not been identified or finalized at this stage of the project. However, the evergreen species selected will meet County code, be consistent with native evergreen species in an around the project area, and grow at a rate such that the panels will be screened/blocked in 5 to 7 years.

All the evergreen trees being planted are a minimum of 8' in height at the time they are to be installed per county code requirements. Assuming the evergreen trees will grow approximately 1 to 1.5 feet a year (which is their normal growth rate) it will take them approximately 5 to 7 years to reach a height of 15'. In that time-frame they will also have reached a diameter to form a dense evergreen hedge.

In addition to this evergreen vegetative screen, SunPower has proposed to install vegetative-look fence screening material over the chain link security fence in areas where this new vegetative screening is proposed. This additional fence screen will soften the appearance of the actual chain link fence and will help obstruct the view of solar farm equipment within the site boundary in these locations. Examples of this type of fence screening can be found here [<provide link>?](#)

38. *What is James City County getting from this? How much tax money will they*

*get from Whisper Ridge for the solar power they sell? Is Norge Elementary going to be powered by the farm? Why is this moving so fast with so little information being given to the Norvalia neighbors? ☒*

See response No. 26 – Project Benefits. See response No. – Electricity Sales See response No. – timing and notice. ☒

39. *A 50 foot barrier of trees is mentioned, but what about the distance from the trees to the panels? Will the property be fenced? Who will be checking the farm daily for breeches to the fence? ☒*

Distances between the trees and the panels will vary slightly around the site depending on location from 15 feet to 50 feet. A buffer must be maintained for accessibility and in some cases to minimize “shading” of the panels to the extent possible. ☒A 7’ chain-link security fence will enclose the site to limit access. SunPower or contract maintenance personnel will be onsite regularly (typically most weekdays) to monitor all site conditions and operations. ☒

Additional questions received post 5-17 Neighborhood Meeting

*Access: What’s possible to re-configure access to the construction site? For example, can easement be obtained through adjacent Norge Elementary School (which also has a stop light) to construct a temporary access road, avoiding the neighborhood altogether? This would also simplify the school begin-end times that the contractor had to avoid. Is there ANY other solution to access the property?*

See response No. 17.

*Construction crew traffic: Can the 80 construction employees park at Farm Fresh or Food Lion and contractor arrange vans or school busses to/from satellite parking? This would also boost local community through van/bus rental, drivers, restaurants, etc. Shuttle appears to be a strategy used at W&M (W&M Hall parking lot).*

In response to concerns raised and this specific suggestion by residents, SunPower will be parking workers off-site and shuttling them onto the project site, significantly reducing the expected traffic impacts to Farmville Lane. See response No. 17.

*Short-term/Long-term Benefit: In the long run the solar farm might be a great energy source and a good low-impact neighbor compared to other possible uses. I didn’t*

*completely understand all the slides and implications, but this project seemed to offer relatively little benefit for the local area and nearby residents and therefore the immediacy of the 9-month construction disruption takes on proportionally greater impact.*

See response No. X Project Benefits. See response above and No. 17 regarding shuttling workers to reduce traffic impacts.

Where does your project connect to the distribution lines? Will there be new poles that go through the neighborhood or along any existing roadway?

See response No. 13

What type of fencing are you proposing around the project and will that be adequately screened along the frontage where it could be viewed from the neighborhood. It seemed like the fencing was not very attractive at this [Isle of Wight] facility and the landscaping for potential buffering was minimal.

An [8]-foot high chain link security fence will be installed around the perimeter of the site. Where existing vegetation is not sufficient to adequately screen the facility, such as on the northeastern portion of the site in the vicinity of the Norvalia neighborhood, SunPower is proposing: (1) a newly-planted 50' wide evergreen vegetative buffer and also (2) vegetative-look fence screening material over the chain link security fence in areas where this new vegetative screening is proposed. The combination of these two measures is a far superior screening and landscaping plan that that installed at the Isle of Wight facility referenced. (See response No. 37)

### Update on Key Permits Required for this Project

<b>Permits</b>	<b>Reviewing Agency</b>	<b>Application Status</b>
Permit-by-Rule (PBR)	Environmental Protection Agency (EPA)	Completed
Wetland Delineation	United States Army Corps of Engineers (USACE) and James City County	Completed
Threatened and Endangered Species	Virginia Department of Environmental Quality (VDEQ) and Virginia Department of Game and Inland Fisheries (DGIF)/ Virginia Department of Conservation and Recreation (DCR)	Completed
Forest Fragmentation Review	DCR	Upcoming
Environmental Site Assessment-Phase 1	EPA	Upcoming
Air Quality Assessment	VDEQ	Upcoming
Area of Potential Effect (PE) and Cultural Resources Survey	Virginia Department of Historic Resources (VDHR)	Upcoming
PBR Package Review and Public Comment Meeting	VDEQ	Upcoming

**ITEM SUMMARY**

DATE: 1/9/2018

TO: The Board of Supervisors

FROM: Savannah Pietrowski, Senior Planner

SUBJECT: Z-0004-2017. Powhatan Terrace Proffer Amendment

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**ATTACHMENTS:**

	Description	Type
☐	Memorandum	Staff Report
☐	Resolution	Resolution
☐	Location Map	Backup Material
☐	Unapproved Minutes of the December 6 Planning Commission - Powhatan Terrace	Minutes
☐	Narrative accompanying Proffer amendment application	Backup Material
☐	Draft proposed Proffers, dated November 28, 2017	Backup Material
☐	Z-0007-2007/MP-0005-2007/SUP-0020-2007, Powhatan Terrace Staff Report	Backup Material
☐	Adopted Proffers, dated February 13, 2008	Backup Material
☐	Adopted Master Plan	Backup Material
☐	Adopted Building Elevations	Backup Material

**REVIEWERS:**

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	12/21/2017 - 4:12 PM
Development Management	Holt, Paul	Approved	12/21/2017 - 4:12 PM
Publication Management	Burcham, Nan	Approved	12/21/2017 - 4:22 PM
Legal Review	Kinsman, Adam	Approved	12/22/2017 - 3:00 PM
Board Secretary	Fellows, Teresa	Approved	12/28/2017 - 11:21 AM
Board Secretary	Purse, Jason	Approved	1/2/2018 - 1:52 PM
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 1:55 PM

## MEMORANDUM

DATE: January 9, 2018  
TO: The Board of Supervisors  
FROM: Savannah Pietrowski, Senior Planner  
SUBJECT: Case No. Z-0004-2017. Powhatan Terrace Proffer Amendment

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On March 25, 2008, the Board of Supervisors rezoned approximately 16.5 acres of land located at 1676 and 1678 Jamestown Road from LB, Limited Business, and R-2, General Residential, to R-2, General Residential, with proffers, and with a Special Use Permit for a Cluster Overlay. Powhatan Terrace was approved for the construction of six 2-story buildings containing a total of 36 townhouse units at a gross density of 2.18 units per acre. The site is currently undeveloped.

Ms. Brandie Weiler of Housing Partnerships, Inc. has submitted a request to amend Condition No. 1 of the adopted Proffers, dated February 13, 2008, made by Investment Properties of Virginia, LLC and Associated Developers, Inc. (Attachment No. 3) to allow rental units within the development. Housing Partnerships, Inc. is requesting this amendment in order to develop Powhatan Terrace as an affordable rental community. There are no other proposed changes to the master plan or other proffered conditions.

The proposed amendment would change Condition No. 1 to read: *“The property shall be developed generally as shown on the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development. There shall be no more than 36 residential townhouse dwelling units on the Property. All residential units on the Property shall be offered for sale **or rental** by the developer thereof.”*

Section 15.2-2302 of the Code of Virginia (1950), as amended, allows the Board of Supervisors to waive the requirements for a public hearing where such amendments do not affect conditions of use or density. This application does not affect conditions of use or density. As such, the County Attorney’s office consulted the Board of Supervisors, and the Board voiced no objection to the applicant’s request to consider amending these Proffers as a consideration item.

At its December 6, 2017 meeting, the Planning Commission recommended approval of this Proffer amendment by a vote of 6-0. There have been no proposed changes to the application since the Planning Commission meeting.

### Staff Recommendation

Staff finds that the requested proffer amendment would be consistent with the recommendations of the Comprehensive Plan adopted in 2015, *“Toward 2035: Leading the Way,”* and the *2035 Strategic Plan* regarding affordable housing. Staff also finds that the requested Proffer amendment would not negatively impact surrounding development. Staff therefore recommends that the Board of Supervisors approve the proposed Proffer amendment.



SP/nb

Z-04-17PowTAMD-mem

Attachments:

1. Resolution
2. Location Map
3. Unapproved Minutes from the December 6, 2017, Planning Commission meeting
4. Narrative accompanying proffer amendment application
5. Draft Proposed Proffers, dated November 28, 2017
6. Z-0007-2007/MP-0005-2007/SUP-0020-2007, Powhatan Terrace Staff Report
7. Adopted Proffers, dated February 13, 2008
8. Adopted Master Plan
9. Adopted Building Elevations

**RESOLUTION**

**CASE NO. Z-0004-2017. POWHATAN TERRACE PROFFER AMENDMENT**

- WHEREAS, on March 25, 2008, the Board of Supervisors approved Case No. Z-0007-2007/MP-0005-2007, which rezoned +/-16.5 acres located at 1676 and 1678 Jamestown Road, further identified as James City County Real Estate Tax Map Parcel Nos. 4730100036 and 4730100037, respectively (together, the "Property"), from LB, Limited Business, and R-2, General Residential, to R-2, General Residential, with proffers; and
- WHEREAS, on behalf of JTR Properties LLC, Ms. Brandie Weiler of Housing Partnerships, Inc., has applied to amend Condition No. 1 of the existing proffers to allow the rental of units; and
- WHEREAS, Case No. Z-0004-2017 proposes amendments which do not affect the use or density of the Property and retains all other proffers contained in the existing proffers; and
- WHEREAS, because the proposed amendments do not affect use or density, the Planning Commission and Board of Supervisors have waived the public hearings in accordance with Section 24-20 of the County Code and § 15.2-2302 of the Code of Virginia; and
- WHEREAS, the Planning Commission of James City County, following its consideration on December 6, 2017, recommended approval of Case No. Z-0004-2017, by a vote of 6 to 0; and
- WHEREAS, the Board of Supervisors of James City County, Virginia, finds Case No. Z-0004-2017 to be required by public necessity, convenience, general welfare and good zoning practice.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-0004-2017 as described herein and accepts the amended voluntary proffers.

\_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST:	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
_____	MCGLENNON	_____	_____
William C. Porter	SADLER	_____	_____
Clerk to the Board	HIPPLE	_____	_____
	LARSON	_____	_____
	ICENHOUR	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January, 2018.

Z-04-17PowTAmd-res

# Z-0004-2017, Powhatan Terrace Proffer Amendment



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360 180 0 360 720 1,080 Feet

**Unapproved Minutes of the December 6, 2017  
Planning Commission Meeting**

**Z-0004-2017. Powhatan Terrace Proffer Amendment**

Ms. Savannah Pietrowski, Senior Planner, stated that Ms. Brandie Weiler, of Housing Partnerships, Incorporated, has submitted a request to amend Condition No. 1 of the adopted Proffers for Powhatan Terrace. Ms. Pietrowski stated that the development was approved by the Board of Supervisors on March 28, 2008, as a cluster development consisting of 36 townhouse units.

Ms. Pietrowski stated that the applicant is requesting to amend the Proffers to allow rental units within the development in order to develop Powhatan Terrace as an affordable rental community. Ms. Pietrowski stated that there are no other proposed changes to the master plan or other proffered conditions.

Ms. Pietrowski stated that staff finds that the requested Proffer amendment would be consistent with the recommendations of the Comprehensive Plan and the Strategic Plan regarding affordable housing. Ms. Pietrowski stated that staff also finds that the requested Proffer amendment would not negatively impact surrounding development. Ms. Pietrowski stated that staff recommends that the Planning Commission recommend approval of the proposed Proffer amendment to the Board of Supervisors.

Mr. Wright inquired about the parcel shown in the middle of the development.

Ms. Pietrowski stated that the boundary line would be extinguished as part of the subdivision process.

Mr. Krapf inquired if there were any meetings with existing residents in the development to discuss the changes.

Ms. Pietrowski stated that she was not aware of any meetings.

Mr. Krapf inquired if renters would be required to join the HOA.

Ms. Pietrowski stated that there is a Proffer Condition that requires an HOA once the project is developed.

Mr. Krapf inquired if the applicant wished to address the Commission.

Ms. Brandie Weiler, Executive Director, Housing Partnerships Inc., addressed the Commission in support of the request. Ms. Weiler noted that there are no existing residents as the project is still under development, therefore, no public meeting was held.

Mr. Wright made a motion to recommend approval of Z-0004-2017.

On a roll call vote the Commission voted to recommend approval of Z-0004-2017. Powhatan Terrace Proffer Amendment (6-0).



#### Board of Directors

Curtis Baker, Chairman  
John H. Kniest, Vice Chairman  
Andrew M. Franck, Secretary  
Marc B. Sharp, Treasurer  
Michael Merz  
Miriam C. Saguto  
Michele Mixner DeWitt  
Scott Grafton

Jeff Brittle  
Melton G. Spruill  
Mike Nice  
Colin L. Owens, Jr.  
William G. Kellam  
Thomas G. Tingle  
Stephen A. Romeo

Executive Director  
Brandie V. Weiler

## Housing Partnerships, Inc. Powhatan Terrace Background Information

November 27, 2017

Housing Partnerships was founded in 1985 with a mission to provide Historic Triangle families with access to safe, warm, and dry homes. Today, this non-profit agency is still thriving and continues to serve our neighbors in need. Our mission is to repair or replace substandard housing in the City of Williamsburg, James City County and York County. Our unique strength is the formation of true partnerships between communities, volunteers and our neighbors in need to achieve safe and secure housing for area families. Since its founding, Housing Partnerships has rehabilitated 2,360 homes, built 46 new homes, recruited over 30,000 volunteers and has given 183,000 volunteer hours to our neighbors in need.

Since Housing Partnerships began its work in 1985, we have seen a dramatic increase in the need for affordable housing in the Historic Triangle. When working with homeowners who are at or below the area median income level we have seen first-hand the difficulty that community members face in maintaining their homes. These community members and their families face difficult financial choices, and unfortunately home repair is often traded off to continue affording other necessities. When these repairs are not completed, homes decline and eventually become irreparable and unsafe. In many situations such as this, the only option for homeowners is to attempt to sell the parcel of land and find an affordable unit in better condition.

As many come to find, there is a lack of affordable housing in the area, especially quality affordable housing in good condition. Housing Partnerships sees this lack not only through the homeowners we serve, but also through the daily phone calls we receive from those community members whom our projects do not currently serve. Nearly every day we encounter calls inquiring about how to find affordable housing or homes for sale in the Historic Triangle. These calls come from people of all types of backgrounds, including facility workers at The College of William and Mary, first responders, shift workers at local distribution centers, educators, and many more. The need for affordable housing touches every corner of our community, but especially our low- to median-income households.

We, Housing Partnerships, understand the value of affordable housing for the families we serve and see it as part of our mission to address this need. Through the "Powhatan Terrace" project, we can begin to provide affordable housing to cost-burdened families facing financial challenges, and many more. Additionally, having this type of housing will allow community members who may not be able to own a home for various reasons to include elderly, young families, etc. the ability to rent at an affordable rate without the burden of having to choose paying a mortgage versus paying for food, medicine, etc. Housing Partnerships, through this project, is committed to providing quality affordable housing for our community.

As a 501 (c)(3) non-profit organization, Housing Partnerships has the ability to develop Powhatan Terrace through the use of creative tax credits, resulting in a project where 100% of the townhomes can be offered at a cost below (and some well below) market rates, responding directly to the need for affordable housing in our community.

Our current planned mix of units, which is subject to change depending on the specific requirements of the tax credit program, is to build (18) two-bedroom units and (18) three-bedroom units. These units would have a fair market rental rate of \$1,150 per month and \$1,601 per month, respectively. We would rent these units at a range of \$486 to \$803 per month for a two-bedroom unit, and a range of \$562 to \$929 per month for a three-bedroom unit. These living units would be marketed to residents making an annual income of \$20,450 to \$30,675 (for single individual income) and an annual income of \$29,200 to \$43,800 (for a family of four).

While this potential project has numerous issues to resolve before it becomes reality (property transfer, financing, tax credit approvals, permitting, etc.) the Housing Partnership Board of Directors is seeking a simple amendment to the proffered conditions, which will allow the project to qualify for the necessary tax credits that make this project achievable.



Parcel Nos: 4730100036, 4730100037, 4730100039

Prepared by:  
Andrew M. Franck (VSB #48293)  
Geddy, Harris, Franck & Hickman, LLP  
1177 Jamestown Road  
Williamsburg, Virginia 23185

Return to:  
James City County Attorney  
101-C Mounts Bay Road  
Williamsburg, Virginia 23185

### FIRST AMENDMENT TO PROFFERS

THIS FIRST AMENDMENT TO PROFFERS is made this 28th day of November, 2017 by JTR PROPERTIES LLC, a Virginia limited liability company (together with its successors and assigns, the "Owner"), to be indexed as "Grantor." JAMES CITY COUNTY, a political subdivision of the Commonwealth of Virginia, to be indexed as "Grantee."

### RECITALS

A. Owner is the owner of three contiguous tracts or parcels of land located in James City County, Virginia (the "Property"), now zoned R2 - General Residential, and subject to Proffers dated February 13, 2008, which Proffers are recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 080020381 (the "Existing Proffers"). The Property is more particularly described in the Existing Proffers.

B. Owner desires to amend Condition 1 of the Existing Proffers as set forth below. All capitalized terms used herein not otherwise defined shall have the definition set forth in the Existing Proffers.

### AMENDMENTS TO CONDITIONS

1. The last sentence of Condition 1 (Master Plan) of the Existing Proffers is hereby amended to read as follows: "All residential dwelling units on the Property shall be offered for sale or rental by the developer thereof."

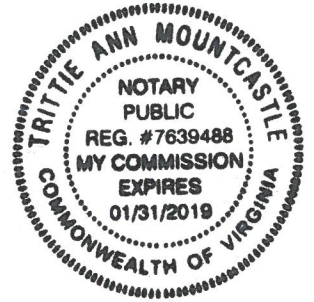
2. Except as specifically amended herein, the Existing Proffers remain unchanged and in full force and effect.

WITNESS the following signature and seal.

JTR PROPERTIES LLC

By: Sterling M. Nichols (SEAL)

Title: owner



COMMONWEALTH OF VIRGINIA

(CITY) COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 28<sup>th</sup> day of November, 2017, by Sterling M. Nichols as owner of JTR Properties LLC.

Trittie Mountcastle  
NOTARY PUBLIC

My commission expires: 1/31/19  
Registration No.: 7639488

**REZONING-0007-2007. Powhatan Terrace**  
**MASTER PLAN-0005-2007. Powhatan Terrace**  
**SPECIAL USE PERMIT-0020-2007. Powhatan Terrace**  
**Staff Report for the March 25, 2008, Board of Supervisors Public Hearing**

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*This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.*

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**PUBLIC HEARINGS**

Planning Commission:  
Board of Supervisors:

**Building F Board Room; County Government Complex**

October 3, 2007, 7:00 p.m. (3-3 vote)  
November 13, 2007, 7:00 p.m. (indefinitely deferred by applicant)  
February 12, 2008, 7:00 p.m. (deferred by applicant)  
February 26, 2008, 7:00 p.m. (deferred by the Board of Supervisors)  
March 25, 2008, 7:00 p.m.

**SUMMARY FACTS**

Applicant: Mr. Vernon Geddy, III, on behalf of Associated Developers, Inc.

Land Owner: Investment Properties of Virginia, LLC

Proposal: The applicant has proposed to rezone three parcels of land to R-2, General Residential, with a Cluster Overlay and to construct six 2-story buildings containing a total of 36 townhouse units at a gross density of 2.18 dwelling units per acre.

Location: 1676 and 1678 Jamestown Road and 180 Red Oak Landing

Tax Map/Parcel Nos.: (47-3) (1-36), (47-3) (1-37), and (47-3) (1-39)

Parcel Size: 16.5 acres

Existing Zoning: LB, Limited Business (4.7 acres) and R-2, General Residential (11.8 acres)

Proposed Zoning: R-2, General Residential, with a Cluster Overlay

Comprehensive Plan: Low-Density Residential and Conservation Area

Primary Service Area: Inside

**STAFF RECOMMENDATION**

Staff believes this proposal will not negatively impact the surrounding properties. Staff believes the proposed densities meet the intention of the Comprehensive Plan with respect to offering particular public benefits to achieve a density of 2.18 dwelling units per acre. In staff's opinion, the public benefits include: lessened traffic on Jamestown Road when compared to potential by-right uses, appropriate buffer along a Community Character Corridor, preservation of mature trees along Jamestown Road, removal of underground storage tanks, off-site stream restoration money, parking lots located behind the buildings fronting on Jamestown Road, pedestrian trails, sidewalks, curb and gutter construction, implementation of the County's Archaeology Policy, implementation of the County's Natural Resource Policy, and implementation of the County's

Streetscape Guidelines. Based on this information, staff recommends that the Board of Supervisors approve this application with the acceptance of the voluntary proffers.

Staff Contact: Matthew J. Smolnik

Phone: 253-6685

### **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission made a motion for approval, which resulted in a 3-3 vote at their October 3, 2007, meeting. A second vote resulted in a 6-0 decision to send this application to the Board of Supervisors with no recommendation, but with the following suggestions: 1) Correct the building type to "C" on the Master Plan; 2) Amend Proffer No. 17 to remove the existing underground storage tanks prior to the issuance of a final Certificate of Occupancy for any units developed on the property; and 3) Include more affordable housing units, as opposed to below market value units.

### **Proposed Changes Made Since Planning Commission Meeting**

1. The building type "C" is now correctly depicted on the Master Plan.
2. Proffer No. 17 has been amended to state the existing underground storage tanks will be removed prior to the issuance of any building permit for any structures on the property.

### **Proposed Changes Made Since February 25, 2008, Board of Supervisors Meeting**

1. The applicant has proffered \$300 for each dwelling on the property for off-site stream restoration in the Powhatan Creek Watershed.
2. Proffer No. 19 has been amended to state that the restricted units must be occupied by the owner or a family member of the owner. Short-term rental by the owner shall be permitted if the owner dies or is transferred out of the area.

**Proffers:** Are signed and submitted in accordance with the James City County Proffer Policy.

<b>Cash Proffer Summary (See staff report narrative and attached proffers for further details)</b>	
<b>Use</b>	<b>Amount</b>
Water	\$844 per residential unit
CIP projects (including schools)	\$1,000 per residential unit
Schools only	\$4,870 per residential unit
Off-site stream restoration	\$300 per residential unit
<b>Total Amount (2007 dollars)</b>	<b>\$252,504</b>
<b>Total Per Lot</b>	<b>\$7,014</b>

### **PROJECT DESCRIPTION**

Mr. Vernon Geddy, III, has applied on behalf of Associated Developers, Inc. to rezone approximately 16.5 acres located at 1676 and 1678 Jamestown Road and 180 Red Oak Landing from LB, Limited Business, and R-2, General Residential, to R-2, General Residential with a Cluster Overlay, with proffers. If approved, the developer will redevelop the property with six 2-story buildings containing a total of 36 townhouse units for sale. There are three properties being consolidated for the proposed rezoning. The two parcels nearest

Jamestown Road are currently zoned LB, Limited Business, and are currently vacant. The parcel furthest from Jamestown Road is currently zoned R-2, General Residential, and is currently undeveloped. The Comprehensive Plan defines gross density as the number of units divided by the total number of acres, which equates to 2.18 units per acre. This figure of 2.18 is used to compare the density of this development against the low-density residential standards of the Comprehensive Plan.

The Master Plan will bind the developer to the following key features of the development: total number of dwelling units; type of dwelling units, type and location of recreational amenities, open space, and LID sites. If the five buildings associated with this proposal contain a floor area that exceeds 30,000 square feet, the site plan will require development review committee review.

## **PUBLIC IMPACTS**

### **Archaeology**

The County archaeological policy is proffered.

### **Environmental**

**Watershed:** Powhatan Creek

**Proffers:**

- The applicant has proffered a Turf Management Program to be implemented in the proposed development. The Homeowners Association (HOA) will be authorized to develop, implement, and enforce the program, which will apply to both any private lawns and common areas under HOA control and may be enforced by either the County or the HOA.
- Development of a stormwater management plan is proffered with the use of low-impact development techniques utilized where feasible, in accordance with the Powhatan Creek Watershed Management (PCWM) Plan.
- The applicant has proffered to conduct a survey for rare, threatened, and endangered species on the property prior to any land disturbing activity.
- The applicant has proffered to remove the existing underground storage tanks on the property in accordance with applicable laws, regulations and ordinances prior to the issuance of the first certificate of occupancy.
- Each residential unit is proffered to be certified under the EarthCraft House Virginia certification process.
- The applicant has proffered \$300 for each residential dwelling unit to be used for off-site stream restoration in the Powhatan Creek Watershed.

**Staff Comments:** Proposed revisions as indicated in the current Community Impact Statement (dated September 18, 2007), the revised proffers, and revised master plan/concept drawings collectively have resulted in the Environmental Division having no further comment on the rezoning application in its current format. Staff believes that the applicant has met the intention of the Powhatan Creek Watershed Management Plan, believes that the proposal provides unusual environmental protection through several potential LID locations and adequately protects perennial and intermittent streams on the property. Staff has noted minor changes that can be addressed during the site plan development stage. Wetlands permits and Chesapeake Bay exceptions may be necessary for this project depending on the design.

### **Fiscal**

The applicant has indicated but not guaranteed (with the exception of three units) that the anticipated average sales price will be \$275,000 for the 33 of the 36 townhouse units for this development. Adjusting for the average sales price of the units and the school expenditures on a per student basis, results in a positive revenue flow to the County of \$314 per unit per year.

**Proffers:**

- A cash contribution of \$844 for each dwelling unit on the property shall be made to the James City Service Authority in order to mitigate impacts on the County from the physical development and operation of the property.
- A cash contribution of \$1,000 for each dwelling unit on the property shall be made to James City County to be used for CIP projects.

**Staff Comments:** Financial and Management Services has reviewed the Fiscal Impact Statement and concurs with the conclusion that, at build-out, the project would either break even or generate a modest positive fiscal impact.

**Housing**

The applicant has indicated that the anticipated average sales price will be \$275,000 for the 33 of the 36 townhouse units for this development.

**Proffers:**

- The applicant has proffered a minimum of three units shall be reserved and offered for sale at a sales price at or below \$195,000.

**Staff Comments:** Staff would prefer that the restricted units be offered for sale as affordable units as defined by the County by lowering the maximum sales price of these units.

**Public Utilities**

**Proffers:**

- A cash contribution of \$844 for each dwelling unit on the property shall be made to the James City Service Authority in order to mitigate impacts on the County from the physical development and operation of the property.
- Appropriate water conservation measures will be developed and submitted to the JCSA for review and approval prior to any site plan approval.

**Staff Comments:** This site is served by public water and sewer. A preliminary water model will be completed and submitted to JCSA prior to or with the site plan for their approval.

**School Facilities**

**Proffer:**

- Total contributions of \$4,870 per residential unit are proffered to the County for each residential unit developed on the property.

**Staff Comments:** According to the Public Facilities section of the Comprehensive Plan, Action No. 4 encourages through the rezoning, special use permit or other development processes (1) evaluation of the adequacy of facility space and needed services when considering increasing development intensities and (2) encouraging the equitable participation by the developer in the provision of needed services. With respect to item (1), the Board of Supervisors has adopted the adequate public school facilities policy. With respect to item (2), the County has identified methods for calculating cash proffer amounts for schools, recreation and water supply facilities.

Powhatan Terrace is located within the Rawls Byrd Elementary School, Berkeley Middle School, and Lafayette High School districts. Under the proposed Master Plan, 36 units are proposed. Per the adequate public school facilities policy all special use permit or rezoning applications should meet the policy for adequate public school facilities. The policy adopted by the Board uses the design capacity of a school, while the Williamsburg-James City County schools recognize the effective capacity as the means of determining student capacities. With respect to the policy, the following information is offered by the applicant:

School	Design Capacity	Effective Capacity	2005 Enrollment	Projected Students Generated	Enrollment + Projected Students

Rawls Byrd Elementary	638	524	850	2.6	853
Berkeley Middle	725	816	890	1.5	892
Lafayette High	1,250	1,230	1,702	1.9	1,704

Based on the information provided by the applicant, both design and effective capacities are exceeded at Rawls Byrd Elementary School, Berkeley Middle School, and Lafayette High School. Although the design capacity of all three schools are clearly exceeded, the policy states that if physical improvements have been programmed through the County CIP then the application will meet the policy guidelines. A new middle school is scheduled to open in 2009; therefore staff believes this proposal meets the policy guidelines for the middle school level. Matoaka Elementary School and Warhill High School opened in September 2007 and staff believes that with the opening of the eighth elementary school and third high school, this proposal meets the policy guidelines for the high school level.

Staff contacted the Williamsburg-James City County School district to obtain updated student enrollment figures for the three schools that would serve Powhatan Terrace. As of September 18, 2007, the student enrollment for the three schools was: Rawls Byrd Elementary – 469 students, Berkeley Middle School – 827 students, and Lafayette High School – 1,272 students.

**Parks and Recreation**

**Proffer:**

- The applicant has proffered to provide the recreational areas shown on the Master Plan along with other recreational facilities, if necessary, that meet the standards in the County’s Recreational Master Plan. In lieu of such recreational facilities, the applicant has proffered to make cash contributions to the County in an amount determined pursuant to the County’s Recreational Master Plan. All cash contributions for this proffer shall be used by the County for recreational capital improvements.

**Staff Comments:** The master plan indicates a passive recreational area, a 0.5 acre park, a mulch trail, and a 2,500-square-foot playground.

**Transportation**

A traffic impact study was not required because the proposed project would not generate more than 100 peak hour trips. According to the trip generation rates, the proposed townhouse units will generate approximately 16 AM peak hour vehicle trips, approximately 19 PM peak hour vehicle trips and approximately 211 daily trips.

**2005 Traffic Counts:** Approximately 9,297 vehicles per day in this area of Jamestown Road.

**2026 Volume Projected:** 10,000 vehicles per day on a two-lane road.

**Road Improvements:** A left-turn lane and right-turn taper will likely be required on Route 31 based on existing volumes and anticipated site trip generation.

**Proffers:**

- There will be one entrance into the property to and from Jamestown Road. The applicant has proffered a northbound left-turn lane with a taper and transition and a southbound right-turn taper at the entrance to the property. The turn lanes will be constructed in accordance with VDOT standards and shall be completed prior to the issuance any certificates of occupancy.

**VDOT Comments:** VDOT agreed on the technical merits of the study and the general conclusions after reviewing the Master Plan and the traffic impact analysis. Their preliminary analysis indicates that warrants for a left-turn lane will be marginal based on existing PM peak hour volumes on Jamestown Road. However, due to periodic heavy opposing volumes from the ferry operations to the north, VDOT recommends that a northbound left-turn lane at the site entrance be constructed. VDOT also recommends that all improvements at the site entrance shall incorporate the existing shoulder bike lane.

**Staff Comments:** Staff concurs with VDOT. Staff notes, however, that the new turn lane will have impacts on the appearance of Jamestown Road. Jamestown Road currently has sufficient capacity to accommodate the development west of Neck O’Land Road, with volumes ranging from 7,072 to 10,100

vehicles per day. However the section east of Neck O'Land Road is in the "watch" category due to projected volumes above the road's capacity. The Comprehensive Plan states that "Residential or commercial developments that add significant traffic along this corridor beyond that currently planned is strongly discouraged" in recognition that more intensive development will negatively impact all of Jamestown Road. Despite the site's LB and R-2 zoning, it was deliberately designated for low-density residential use in the Comprehensive Plan due to traffic concerns on Jamestown Road. Staff believes that the intent of the Comprehensive Plan is to encourage developments that have less of a traffic impact than those uses permitted by existing zoning and more akin to the uses supported by the Low Density Residential land use description. Staff believes that one of the public benefits of this proposal will be the lessened volume of traffic created on Jamestown Road compared to the volume of traffic that may be generated by other potential uses on the property. Powhatan Terrace is predicted to produce 211 daily trips on Jamestown Road. By comparison, a by-right development consisting of 9,999 square feet of retail space and 11 single-family dwelling units is predicted to produce up to 549 daily trips on Jamestown Road. If the property was designed to accommodate the maximum Comprehensive Plan density of four dwelling units per acre, the site could generate up to 616 trips per day.

**COMPREHENSIVE PLAN**

**Land Use Map**

<p>Designation</p>	<p><i>Low Density Residential (Page 120):</i> Examples of acceptable land uses within the Low Density Residential designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments.</p> <p><i>Conservation Area (Page 129):</i> Examples of preferred land uses within the Conservation Area designation include fish and game preserves, parks and other open space that complement the natural environment.</p> <p><b>Staff Comment:</b> The Comprehensive Plan identifies the land across from the Grace Covenant Baptist Church as an area which has inconsistencies between their Zoning and Land Use Map designations. These parcels include the site (partially zoned LB, Limited Business) and TK Oriental (zoned LB, Limited Business). The zoning was determined prior to or without recognition of the County's Land Use Map. Unlike the zoning for these parcels, the Comprehensive Plan designation for these parcels was deliberate after considerable analysis. It recognizes adjacent land uses, traffic conditions, zoning and a variety of other considerations. Given the traffic concerns and the fact that this area is predominantly residential in character, the low density residential designation is appropriate for this area and should remain unchanged.</p>
<p>Development Standards</p>	<p><i>General Land Use Standard #1 (Page 134):</i> To permit new development only where such developments are compatible with the character of adjoining uses and where the impact of such new developments can be adequately addressed.</p> <p><i>General Land Use Standard #4 (Page 134):</i> To ensure protection of sensitive resources areas such as watersheds, historic, and archaeological resources, through the use of better site design, buffers and screening.</p> <p><i>General Land Use Standard #7 (Page 134):</i> Require underground utilities in new developments.</p> <p><i>Residential Land Use Standard #1 (Page 137):</i> Ensure that gross housing densities are compatible with the local environment, the scale and capacities of public services, facilities and utilities available or planned, and the character of development in the vicinity.</p> <p><i>Residential Land Use Standard #6 (Page 137):</i> Locate residential development on internal roads as both an aesthetic and safety measure.</p> <p><b>Staff Comment:</b> The Powhatan Terrace project is compatible in size and scale to the neighboring Raleigh Square and provides a transitional area between moderate density residential development and the commercial development of TK Oriental. The front six acres of Raleigh Square has a density of 8.2 dwelling units per acre and contains 47 two-story attached units and two single-family detached dwellings. Appropriate environmental and Community Character Corridor buffers have been provided with this application. All new utilities will be placed underground. The 11.8 acres currently zoned R-2, General Residential, and the 4.7 acres currently zoned LB, Limited Business</p>



	are both designated Low Density Residential on the Comprehensive Plan due to traffic concerns along this section of Jamestown Road.
Goals, Strategies and Actions	<p><i>Strategy #2 (Page 138):</i> Ensure development is compatible in scale, size, and location to surrounding existing and planned development.</p> <p><i>Strategy #3 (Page 138):</i> Ensure that all land uses are located at appropriate sites in the Primary Service Area.</p> <p><i>Strategy #6 (Page 138):</i> Promote the use of land consistent with the capacity of existing and planned public facilities and services.</p> <p><i>Action #1 (Page 139):</i> Provide for low-density and moderate density residential development in appropriate locations inside the Primary Service Area.</p> <p><b>Staff Comment:</b> The Powhatan Terrace project is compatible in size and scale to the neighboring Raleigh Square and provides a transitional area between moderate density residential development and commercial development. The Powhatan Terrace property is located inside the PSA. The 11.8 acres currently zoned R-2, General Residential, and the 4.7 acres currently zoned LB, Limited Business, are both designated Low Density Residential on the Comprehensive Plan due to traffic concerns along this section of Jamestown Road.</p>

### Parks and Recreation

Goals, Strategies and Actions	<p><i>Strategy #9 (Page 39):</i> Encourage new developments to proffer neighborhood and park facilities and trails as outlined in the Parks and Recreation Master Plan.</p> <p><i>Action #4 (Page 39):</i> New development should dedicate right-of-way and provide sidewalks, bikeways, and greenway trails for both transportation and recreational purposes.</p> <p><b>Staff Comment:</b> The master plan indicates a passive recreational area, a 0.5 acre park, a mulch trail and a 2,500-square-foot playground, which is consistent with the Parks and Recreation Master Plan.</p>
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### Environment

General	<p><i>Natural Resources Protection and Management, Powhatan Watershed Management Plan (Page 47) and Action #18 (Page 67):</i> To fully implement the watershed protection and restoration goals and priorities identified in the Powhatan Creek Watershed Management Plan re-adopted by the Board of Supervisors on October 10, 2006.</p> <p><b>Staff Comment:</b> Staff believes that the applicant has met the intention of the Powhatan Creek Watershed Management Plan, believes that the proposal provides unusual environmental protection through several potential LID locations and adequately protects perennial and intermittent streams on the property.</p>
Goals, Strategies and Actions	<p><i>Strategy # 1 (Page 65):</i> Utilize existing techniques and develop new regulations and non-regulatory techniques to preserve the County's environmental quality.</p> <p><i>Strategy # 2 (Page 65):</i> Assure that new development minimizes adverse impacts on the natural and built environment.</p> <p><i>Action # 5 (Page 65):</i> Encourage the use of Better Site Design, Low Impact Development, and Best Management Practices (BMPs) to mitigate adverse environmental impacts by reducing the rate of increase of impervious cover.</p> <p><i>Action # 18 (Page 67):</i> Fully implement the watershed protection and restoration goals and priorities identified in the Powhatan Creek Watershed Management Plan re-adopted by the Board of Supervisors on October 10, 2006.</p> <p><i>Action #23 (Page 67):</i> Encourage residential and commercial water conservation.</p> <p><b>Staff Comment:</b> Appropriate wetland buffers have been provided and there are several LID sites shown on the binding Master Plan. Staff believes that the applicant has met the intention of the Powhatan</p>

	Creek Watershed Management Plan, believes that the proposal provides unusual environmental protection through several potential LID locations and adequately protects perennial and intermittent streams on the property. Water conservation standards have been proffered by the applicant.
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**Transportation**

General	<i>Roadway Components of County Transportation Planning, Jamestown Road (Page 76):</i> Although traffic volume projections warrant the widening portions of Jamestown Road to a divided four-lane, the Comprehensive Plan recommends that this road be maintained as a two-lane facility. Residential or commercial development that adds significant traffic along this corridor beyond that currently planned is strongly discouraged.
	<b>Staff Comment:</b> The current proposal will produce an estimated 211 daily trips on Jamestown Road. This estimate is less than what may be produced with a by-right commercial development in conjunction with residential development on this property.
Goals, strategies and actions	<i>Goal #2 (Page 80):</i> Ensure that the transportation system supports a land use pattern that is consistent with the Comprehensive Plan.
	<i>Strategy #5 (Page 80):</i> Support the provision of sidewalks and bikeways in appropriate areas.
	<i>Action #5 (Page 81):</i> Encourage land use densities, intensities, and development patterns that recognize the capacities, roadway functional classification, and scenic corridor designations of existing and proposed roads.
	<i>Action #15 (Page 82):</i> Encourage the design of roads that allow automobiles, public transit, pedestrians, and bicyclists to coexist safely on roads and streets in residential and commercial areas.
	<b>Staff Comment:</b> The Comprehensive Plan suggests that the Powhatan Terrace property be developed in accordance with the Low Density Residential standards due to traffic concerns along Jamestown Road. The bike lane along Jamestown Road will be worked into the design of any required road improvements to Jamestown Road and sidewalks will be constructed along the interior roads and along the Jamestown Road frontage.

**Community Character**

General	<i>Community Character Corridors (Page 84):</i> The Comprehensive Plan designates Jamestown Road as a Community Character Corridor, which are roads that promote the rural, natural or historic character of the County. The County acknowledges that views along these roads can have a significant impact on how citizens and visitors perceive the character of the area and believes these roads warrant a high level of protection. This section of Jamestown Road is considered a Suburban Community Character Corridor. The objective of this type of Community Character Corridor is to ensure that the County retains a unique character and does not become simply another example of standard development. The predominant visual character of the Suburban Community Character Corridor should be the built environment and natural landscaping, with parking and other auto-related areas clearly a secondary component of the streetscape. Development in Suburban Community Character Corridors should not replicate standardized designs commonly found in other communities, but rather reflect nearby historic structures, a sensitivity to the history of the County in general and an emphasis on innovative design solutions. The scale and placement of buildings in relation to each other, the street and parking areas should be compatible. In these areas the Community Character Corridor designation suggests enhanced landscaping, preservation of specimen trees and shrubs, berming and other desirable design elements which complement and enhance the visual quality of the corridor.
	<b>Staff Comment:</b> Staff believes the Master Plan and proffers for Powhatan Terrace will adequately protect the Suburban Community Character of Jamestown Road. A 150-foot wide Community Character Corridor buffers enhanced with berms and landscaping has been proffered. Mature trees within the buffer are to be preserved and a streetscape package has been proffered to provide street trees. All new utilities will be placed underground and parking will be located behind the buildings, away from Jamestown Road. The turn lane and taper at the new entrance will widen the pavement along this section of Jamestown Road expanding the scale of the roadway from its current

Goals, Strategies and actions	<p>appearance.</p> <p><i>Strategy # 2 (Page 95):</i> Ensure that development is compatible in scale, size, and location to surrounding existing and planned development.</p> <p><i>Strategy #3 (Page 95):</i> Ensure that development along Community Character Corridors and Areas protects the natural views of the area, promotes the historic, rural or unique character of the area, maintains greenbelt networks, and establishes entrance corridors that enhance the experience of residents and visitors.</p> <p><i>Strategy #6 (Page 95):</i> Ensure that all new development blends carefully with the topography and surrounding vegetation, preserving unique formations, greenery, and scenic views.</p> <p><i>Action # 8 (Page 96):</i> Continue to require or encourage the planting of street/curb side streets.</p> <p><i>Action #11 (Page 96):</i> Continue to require underground utilities in all new developments.</p> <p><i>Action #24b (Page 97):</i> Maintain the small town, rural, and natural character by encouraging new developments to employ site and building design techniques that reduce their visual presence and scale. Design techniques include berms, buffers, landscaping and low visibility parking locations.</p>
	<p><b>Staff Comment:</b> The Powhatan Terrace project is compatible in size and scale to the neighboring Raleigh Square and provides a transitional area between moderate density residential development and commercial development. A 150-foot wide Community Character Corridor buffers enhanced with berms and landscaping has been proffered. Mature trees within the buffer are to be preserved and a streetscape package has been proffered to provide street trees. All new utilities will be placed underground and parking will be located behind the buildings, away from Jamestown Road.</p>

**Comprehensive Plan Staff Comments**

According to the 2003 Comprehensive Plan, low-density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwellings in the proposed development and the degree to which the development is consistent with the Comprehensive Plan. The Comprehensive Plan states, “In order to encourage higher quality design, a residential development with gross density greater than one unit per acre and up to four units per acre may be considered only if it offers particular public benefits to the community... Depending on the extent of the benefits, developments up to four units per acre will be considered for a special use permit”. The R-1, Limited Residential, R-2, General Residential, and the Residential Cluster Development Overlay districts of the Zoning Ordinance specially permit developments with densities greater than one dwelling unit per acre. They are also the only zoning districts that specifically mention the benefits that must be provided in order to achieve densities up to four units per acre.

Staff believes that the proposed master plan with a gross density of 2.18 dwelling units per acre offers sufficient public benefits, such as lessened traffic on Jamestown Road when compared to potential by-right uses, appropriate buffer along a Community Character Corridor, preservation of mature trees along Jamestown Road, parking lots located behind the buildings fronting on Jamestown Road, pedestrian trails, sidewalks, curb and gutter construction, implementation of the County’s Archaeology Policy, implementation of the County’s Natural Resource Policy, and implementation of the County’s Streetscape Guidelines to warrant a density greater than one unit per acre. The project will also remove the underground storage tanks on-site.

While the Comprehensive Plan uses gross acreage to calculate density, the applicant has also provided density calculations for this project with the removal of the land designated as Conservation Area on the Comprehensive Plan. There are 6.3 acres of land designated as Conservation Area, which when removed, leads to a density of 3.53 dwelling units per acre. It should be noted that this density calculation was requested of staff for comparison purposes only.

In accordance with Section 24-549(a) of the Zoning Ordinance, the Board of Supervisors may grant a SUP for residential cluster developments of more than two units per acre, but no more than three units per acre if the developer provides the following *with staff comments in bold italics*:

1. Implementation of the County's Streetscape Guidelines, *which has been proffered for Powhatan Terrace.*
2. Implementation of the County's Archaeological Policy, *which has been proffered for Powhatan Terrace.*
3. Provision of sidewalks along one side of all internal streets, *which has been proffered for Powhatan Terrace.*
4. Provision of recreation facilities in accordance with the County's Parks and Recreation Guidelines, *which has been proffered for Powhatan Terrace.*
5. Implementation of the County's Natural Resource Policy, *which has been proffered for Powhatan Terrace.* Additionally, the Department of Conservation and Recreation has searched its Biotics Data System for occurrences of natural resources on the property associated with this application. Due to the scope of the activities and the distances to the resources, the Department of Conservation and Recreation does not anticipate that Powhatan Terrace will adversely impact known natural heritage resources in the project area.
6. Provision of pedestrian and/or bicycle trails; *which have been proffered for Powhatan Terrace.*
7. Construction of curb and gutter design on all streets within the development; *which has been proffered for Powhatan Terrace.* This requirement may be waived or modified by the Planning Commission along those segments of road, including the entrance road, where structures are not planned.

In summary, staff believes Powhatan Terrace meets the criteria of the Cluster Overlay District to achieve the requested densities.

#### **RECOMMENDATION**

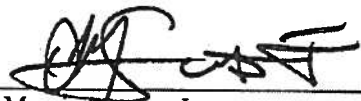
Staff believes this proposal will not negatively impact the surrounding properties. Staff believes the proposed densities meet the intention of the Comprehensive Plan with respect to offering particular public benefits to achieve a density of 2.18 dwelling units per acre. In staff's opinion, the public benefits include: lessened traffic on Jamestown Road when compared to potential by-right uses, appropriate buffer along a Community Character Corridor, preservation of mature trees along Jamestown Road, removal of underground storage tanks, off-site stream restoration money, parking lots located behind the buildings fronting on Jamestown Road, pedestrian trails, sidewalks, curb and gutter construction, implementation of the County's Archaeology Policy, implementation of the County's

Natural Resource Policy, and implementation of the County's Streetscape Guidelines. Based on this information, staff recommends that the Board of Supervisors approved this application with the acceptance of the voluntary proffers.

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Matthew J. Smolnik

CONCUR:



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O. Marvin Sowers, Jr.

MJS/nb  
PwhTerr\_032508

ATTACHMENTS:

1. Approved Planning Commission Minutes from October 3, 2007 (submitted with the February 25, 2008, Board packet)
2. Location Map
3. Master Plan dated June 1, 2007 (under separate cover)
4. Community Impact Statement dated September 18, 2007 (submitted with the February 25, 2008, Board packet)
5. Letter from Michael & Kensett Teller dated October 1, 2007 (submitted with the February 25, 2008, Board packet)
6. Email from Lakewood Homeowners Association dated October 3, 2007 (submitted with the February 25, 2008, Board packet)
7. Letter from Friends of Powhatan Creek date stamped October 3, 2007 (submitted with the February 25, 2008, Board packet)
8. Email from Sarah Kadec representing James City County Concerned Citizens; Coalition dated October 3, 2007 (submitted with the February 25, 2008, Board packet)
9. Letter from Andrew Burge and Bronwen Watts date stamped October 3, 2007 (submitted with the February 25, 2008, Board packet)
10. Email from John and Kathy Hornung to John McGlennon dated November 1, 2007 (submitted with the February 25, 2008, Board packet)
11. Proffers (dated February 13, 2008)
12. Resolution



080 020381

 COPY

**PROFFERS**

THESE PROFFERS are made this 13th day of February, 2008 by INVESTMENT PROPERTIES OF VIRGINIA, LLC (together with its successors and assigns, the "Owner") and ASSOCIATED DEVELOPERS, INC., a Virginia corporation ("Buyer").

**RECITALS**

A. Owner is the owner of three contiguous tracts or parcels of land located in James City County, Virginia, one with an address of 1676 Jamestown Road, Williamsburg, Virginia and being Tax Parcel 4730100036, the second with an address of 1678 Jamestown Road, Williamsburg, Virginia and being Tax Parcel 4730100037, and the third with an address of 180 Red Oak Landing Road, Williamsburg, Virginia and being Tax Parcel 4730100039, being more particularly described on Exhibit A attached hereto (together, the "Property"). A portion of the Property is now zoned L-B and a portion is now zoned R-2.

B. Buyer has contracted to purchase the Property conditioned upon the rezoning of the Property.

C. Owner and Buyer have applied to rezone the Property from L-B and R-2 to R-2, with proffers, and for a Special Use Permit to permit a residential cluster development of up to 36 townhouse units.

D. Buyer has submitted to the County a master plan entitled "Master Plan for Rezoning of Powhatan Terrace" prepared by AES Consulting Engineers dated June 1, 2007 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

E. Owner and Buyer desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-2.

✓ 15  
PLEASE RETURN TO:  
COUNTY ATTORNEY  
JCC - BLDG. C

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2298 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITION

1. **Master Plan.** The Property shall be developed generally as shown on the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development. There shall be no more than 36 residential townhouse dwelling units on the Property. All residential dwelling units on the Property shall be offered for sale by the developer thereof.

2. **Owners Association.** There shall be organized an owner's association (the "Association") in accordance with Virginia law in which all unit owners in the Property, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, private roads and parking areas, shall require each initial purchaser of a unit to make a capital contribution to the Association for reserves in an amount equal to one-sixth of the annual general assessment applicable to the unit (but no less than \$100.00) and shall require that the association (i) assess all members for the maintenance of all properties owned or



maintained by the association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant the Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents.

**3. Water Conservation.** (a) Water conservation standards shall be submitted to the James City Service Authority ("JCSA") as a part of the site plan or subdivision submittal for development on the Property and Owner and/or the Association shall be responsible for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by JCSA prior to final subdivision or site plan approval.

(b) If the Owner desires to have outdoor watering it shall provide water for irrigation utilizing surface water collection from the surface water pond that is shown on the Master Plan or from rain barrels and shall not use JCSA water for irrigation purposes. This requirement prohibiting the use of well water may be waived or modified by the General Manager of JCSA if the Owner demonstrates to the JCSA General Manager that there is insufficient water for irrigation in the surface water impoundments, and the Owner may apply for a waiver for a shallow (less than 100 feet) well to supplement the surface water impoundment.

**4. Cash Contributions for Community Impacts.** For each dwelling unit on the Property the one time cash contributions set forth in this Section 4 shall be made.

(a) A contribution of \$844.00 for each dwelling unit on the Property shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on the County from the

physical development and operation of the Property. The JCSA may use these funds for development of alternative water sources or any project related to improvements to the JCSA water system, the need for which is generated by the physical development and operation of the Property.

(b) A contribution of \$4,870.00 for each dwelling unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds solely for school use.

(c) A contribution of \$1,000.00 for each dwelling unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated by the physical development and operation of the Property, including, without limitation, for emergency services equipment replacement and supply, off-site road improvements, library uses, and public use sites.

(d) A contribution of \$300.00 for each dwelling unit on the Property shall be made to the County for off-site stream restoration in the Powhatan Creek watershed..

(e) The contributions described above, unless otherwise specified, shall be payable for each dwelling unit on the Property at or prior to the final approval of the site plan or subdivision plat for such unit. In the event dwelling units, such as townhouse units, require both a site plan and subdivision plat, the contributions described above shall be payable for each such dwelling unit shall be paid at the time of final subdivision plat approval.

(f) The per unit contribution(s) paid pursuant to this Section shall be adjusted annually beginning January 1, 2009 to reflect any increase or decrease for the preceding year in the

Marshall and Swift Building Costs Index (the "Index"). In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) and (b) of this Section. The adjustment shall be made by multiplying the per unit contribution for the preceding year by a fraction, the numerator of which shall be the Index as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the Index as of December 1 in the preceding year. In the event a substantial change is made in the method of establishing the Index, then the per unit contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing the Index. In the event that the Index is not available, a reliable government or other independent publication evaluating information heretofore used in determining the Index (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

**5. Jamestown Road Buffer.** There shall be a minimum 150 foot buffer along the Jamestown Road frontage of the Property generally as shown on the Master Plan. The buffer shall be exclusive of any lots or units. The entrance as shown generally on the Master Plan, landscaping and berms, the trails, sidewalks and bike lanes as shown generally on the Master Plan, and with the approval of the Development Review Committee, utilities, lighting, entrance features and signs shall be permitted in the buffer. Dead, diseased and dying trees or shrubbery, and invasive or poisonous plants may be removed from the buffer area. A combination of preservation of existing trees, enhanced landscaping (defined as 125% of County Zoning Ordinance ("Ordinance") plant size requirements) and berms shall be provided within the buffer in accordance with a landscaping plan approved by the Director of Planning which shall, when

the landscaping has reached maturity, screen the adjacent units from the direct view of vehicles traveling on Jamestown Road. The perimeter buffers between the sides/back of buildings and the adjacent properties shall contain enhanced landscaping (defined as 125% of Ordinance size requirements) in accordance with a landscaping plan approved by the Director of Planning. The buffers shall be planted or the planting bonded in an amount and form approved by the County Attorney prior to the County being obligated to issue building permits for dwelling units located on the Property.

**6. Entrances/Turn Lanes.** There shall be one entrance into the Property to and from Jamestown Road as generally shown on the Master Plan. A northbound left turn lane with a taper and transition and an southbound right turn taper on Jamestown Road shall be constructed at the entrance to the Property. The turn lane and tapers proffered hereby shall be constructed in accordance with Virginia Department of Transportation standards and shall be completed prior to the issuance of the first certificate of occupancy.

**7. Recreation.** Owner shall provide the park, playground and passive recreational area shown on the Master Plan before the County is obligated to grant certificates of occupancy for more than 18 dwelling units on the Property. Owner shall install a mulch trail generally in the location shown on the Master Plan with the design and exact location of the mulch trails subject to the approval of the Director of Planning. The exact locations of the facilities proffered hereby and the equipment to be provided at such facilities shall be subject to the approval of the Director of Planning.

**8. Private Drives.** All entrance roads, interior roads, driveways, lanes or drive aisles connecting the parking areas on the Property shall be private and shall be constructed in

accordance with applicable County private street standards. Private roads shall be maintained by the Association. Owner shall deposit into a maintenance reserve fund to be managed by the Association an amount equal to one hundred and fifty percent (150%) of the amount of the maintenance fee that would be required for a public street of the same length as established by VDOT - Subdivision Street Requirements. The County shall be provided evidence of the deposit of such maintenance fee at the time of final site plan or subdivision plat approval by the County for the particular phase or section which includes the relevant private street.

**9. Environmental Protections.** (a) Owner shall submit to the County a stormwater management plan for the Property consistent with the Conceptual Stormwater Management Plan prepared by AES Consulting Engineers dated June 1, 2007 ("Stormwater Plan") and included in the Master Plan set submitted herewith and on file with the County, including facilities and measures necessary to meet the County's 10 point stormwater management system requirements and the special stormwater criteria applicable in the Powhatan Creek watershed ("SSC") and, in addition, including features and measures over and above those necessary to meet the 10 point and SSC requirements, which shall include, without limitation, bio-retention basins, provision of as-built drawings for the entire stormwater system, enhanced slope stabilization on all cut and fill slope, enhanced outlet protection on BMP outfall, porous pavement, rain barrels and dry swales subject to the criteria and conditions set forth on the Stormwater Plan. The stormwater plan shall be approved by the Environmental Director or his designee prior to the submission of any development plans for the Property. The stormwater management plan may be revised and/or updated during the development of the Property based on on-site conditions discovered in the field with the prior written approval of the Environmental Director or his designee. The

approved stormwater management plan, as revised and/or updated, shall be implemented in all development plans for the Property.

(b) The owner of the Property shall cause a survey to be conducted of the Property for rare, threatened and endangered species prior to any land disturbing activity on the Property. The location of any rare, threatened and endangered species located on the Property shall be shown on all subdivision or other development plans of the Property. Before any land disturbing activity is allowed in the vicinity of any rare, threatened and endangered species identified, if any, on the Property, a conservation plan shall be prepared by the owner of the Property in accordance with state and federal laws applicable to the Property at the time of development of the conservation plan and said conservation plan shall be submitted for information purposes to the Director of Planning and shall be incorporated into the development plans for the Property and implemented in the development of the Property.

10. **Archaeology.** A Phase I Archaeological Study for the Property shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to, and approved by, the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan

shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and shall be adhered to during the clearing, grading and construction activities thereon.

11. **Architectural Review.** Prior to the County being obligated to grant final development plan approval for any of the buildings shown on any development plan for any portion of the Property, there shall be prepared and submitted to the Director of Planning for approval architectural and landscaping plans, including architectural elevations, for the Director of Planning to review and approve for general consistency with the architectural styles depicted in the architectural renderings prepared by Guernsey Tingle Architects submitted with the rezoning application. The Director of Planning shall review and either approve or provide written comments setting forth changes necessary to obtain approval within 45 days of the date of submission of the plans in question. Final plans and completed buildings shall be consistent with the approved conceptual plans as determined by the Director of Planning.

12. **Preservation of Specimen Trees.** Owner shall submit a tree survey of the Property with the site plan for development of the Property and shall use its best efforts to preserve trees within the Jamestown Road buffer identified on the survey as specimen trees to be preserved. If

any of the specimen trees die prior to issuance of certificates of occupancy for all units on the Property, the dead tree shall be replaced with a new tree with at least a two and one-half inch caliper.

**13. Green Building; EarthCraft House Certification.** Each residential unit shall be certified under the EarthCraft House Virginia certification process and a copy of the certification shall be provided to the Director of Planning.

**14. Streetscape Guidelines.** The Owner shall provide and install streetscape improvements in accordance with the applicable provisions of the County's Streetscape Guidelines policy. The streetscape improvements shall be shown on development plans for that portion of the Property and submitted to the Director of Planning for approval during the site plan approval process. Streetscape improvements shall be either (i) installed within six months of the issuance of any certificate of occupancy for any residential units in adjacent structures or (ii) bonded in form and amount satisfactory to the County Attorney prior to the issuance of any certificate of occupancy for any residential units in adjacent structures.

**15. Nutrient Management Plan.** The Association shall be responsible for contacting an agent of the Virginia Cooperative Extension Office ("VCEO") or, if a VCEO agent is unavailable, a soil scientist licensed in the Commonwealth of Virginia, an agent of the Soil and Water Conservation District or other qualified professional to conduct soil tests and to develop, based upon the results of the soil tests, customized nutrient management plans (the "Plans") for all common areas within the Property and each individual lot shown on each subdivision plat of the Property. The Plans shall be submitted to the County's Environmental Director for his review and approval prior to the issuance of the building permits for more than 50% of the units



shown on the subdivision plat. Upon approval, the Owner so long as it controls the Association and thereafter the Association shall be responsible for ensuring that any nutrients applied to common areas which are controlled by the Association be applied in strict accordance with the Plan. The Owner shall provide a copy of the individual Plan for each lot to the initial purchaser thereof. Within 12 months after issuance of the Certificate of Occupancy for the final dwelling unit on the Property and every three years thereafter, a turf management information seminar shall be conducted on the site. The seminar shall be designed to acquaint residents with the tools, methods, and procedures necessary to maintain healthy turf and landscape plants.

16. **Sidewalks.** There shall be sidewalks five feet in width installed along one side of all streets within the Property generally as shown on the Master Plan. Owner shall install a sidewalk along the Jamestown Road frontage of the Property.

17. **Underground Storage Tanks.** The existing underground storage tanks on the Property shall be removed in accordance with applicable laws, regulations and ordinances prior to the issuance of any building permit for structures on the Property.

18. **Curb and Gutter.** Streets within the Property shall be constructed with curb and gutter provided, however, that this requirement may be waived or modified along those segments of street, including entrance roads, where structures are not planned.

19. **Price Restricted Units.** A minimum of three of the units shall be reserved and offered for sale at a sales price to buyer at or below \$195,000 subject to adjustment as set forth herein ("Restricted Units"). The maximum price set forth herein shall be adjusted annually, or January 1st of each year, by increasing such prices by the cumulative rate of inflation as measured by the Index annual average change for the period from January 1, 2009 until January 1 of the year in question. The Director of Planning shall be provided with a copy of the

settlement statement for each sale of a Restricted Unit. The Governing Documents shall include a provision, approved by the County Attorney, providing that the Restricted Units must be occupied by the owner thereof or a family member of the owner. Short term rentals of these Restricted Unit by the owner thereof shall be permitted if the owner dies or is transferred out of the area and in similar situations.

WITNESS the following signature.

INVESTMENT PROPERTIES OF VIRGINIA, LLC

By: [Signature]

Title: MANAGER

STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 17<sup>th</sup> day of March, 2008, by Michael C. Brown as Manager of Investment Properties of Virginia, LLC.

[Signature]  
NOTARY PUBLIC

My commission expires: 06/30/2011  
Registration No.: 284510



ASSOCIATED DEVELOPERS, INC.

By: [Signature]

Title: president

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 14<sup>th</sup> day of March, 2008, by [Signature] President of Associated Developers, Inc.

[Signature]  
NOTARY PUBLIC

My commission expires: 2-28-2011  
Registration No.: 183223



## EXHIBIT A

### PARCEL ONE

All that certain piece or parcel of land, with the buildings and improvements thereon, consisting of 10.00 acres, more or less, situate in Jamestown District, James City County, Virginia, bounded and described as follows: Beginning at an iron stake on the southerly side of the road leading from the Main and Ambler's Farms to Powell's Mill crossing Route 31 to Jamestown on the dividing line between the land hereby conveyed and that of Robinson; thence in a westerly direction along said road the distance of 400 feet to another iron stake; thence said lot extends back in a southerly direction between parallel lines the distance of 1050 feet, more or less, to iron stakes marking its corners; and being a portion of a tract of land containing 140.62 acres as shown by survey and plat recorded in James City Plat Book 2, page 19, and is a portion of the same property of which T. T. Nixon died seized and possessed, intestate; the said tract having been conveyed to him by J. N. Richardson by deed from Henry O. Wright and wife, dated April 15, 1929, and recorded in James City Deed Book 24, page 531; the undivided one-half interest of the said Richardson having been conveyed to the said T. T. Nixon by deed dated June 5, 1930, and recorded in James City Deed Book 25, pages 514-5.

### PARCEL TWO

All that certain lot, piece or parcel of land, with the buildings and improvements thereon, situate in Jamestown Magisterial District, James City County, Virginia, lying on the southerly side of the 10.00+/- acre parcel of Nixon, consisting of 6.082 acres, more or less, and described as follows: commencing at an iron stake 1,050 feet from the road leading from Ambler's and the Main Farm to Five Forks and Powell's Mill Road running thence a distance of 200 feet more or less in a southerly direction in a straight line to the low water mark of Powhatan Creek; thence in a westerly direction along the low water mark of Powhatan Creek as it meanders a distance of 400 feet more or less to a point; thence in a northerly direction in a straight line a distance of 200 feet more or less to an iron stake, the corner to the property hereby conveyed and other lands of Nixon; thence in an easterly direction along the line of the property hereby conveyed and other lands of Nixon a distance of 400 feet, more or less, to an iron stake corner to the property hereby conveyed and other lands of Nixon, being the point of departure. Said property is bounded on the northerly side of other lands of Nixon; on the southerly side by Powhatan Creek; on the easterly side by the lands of Robinson; and on the westerly side by the remaining lands of Hess N. Hart and Harry Hart, her husband, Mary B. Norman and J. D. Norman, her husband, Dorothy N. Waltrip and G. K. Waltrip, her husband. Said property is a portion of the track of land containing 140.62 acres as shown by survey and plat recorded in James City Plat Book 2, page 19, and is a portion of the same property of which T. T. Nixon died seized and possessed intestate; the said tract having been conveyed to him and J. N. Richardson by deed from Henry O. Wright and wife, dated April 15, 1929, and recorded in James City County Deed Book 24, page 531, the undivided one-half interest of said Richardson having been conveyed to the said T. T. Nixon by deed dated June 5, 1930, and recorded in James City County Deed Book 25, page 514.

PARCEL THREE

ALL that certain lot, piece or parcel of land situate, lying and being in Jamestown District, James City County, Virginia, as shown on that certain plat entitled, "E. T. Nixon, Plat of Survey, Containing .43 Acres, Two Miles Southeast of Williamsburg, James City County, Virginia" dated February 8, 1960 made by R. B. Cartwright, Certified Land Surveyor, and recorded April 1, 1960 in the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City in Deed Book 74, page 100; and being more particularly described as follows: Beginning at an angle iron down a private lane leading South from State Route #31; thence South 69° 30' East 116.28 feet to an angle iron; thence South 20° 00' West 162.28 feet to an angle iron; thence North 69° 30' West 116.28 feet to an angle iron; thence North 20° 00' East 162.28 feet to an angle iron, the point of beginning.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 13 Aug 68

at 2:53 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk



# Master Plan for Rezoning FOR Powhatan Terrace

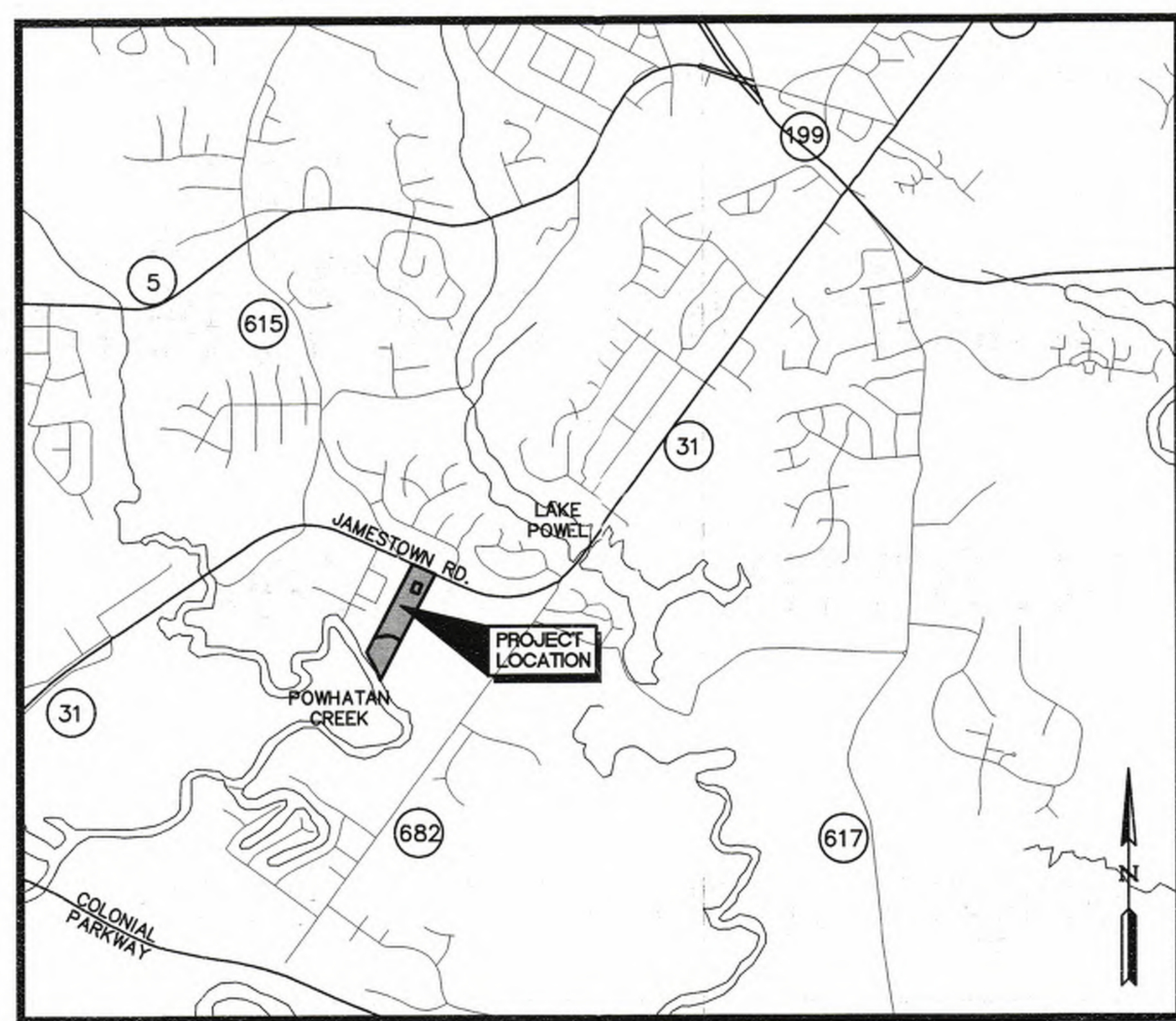
MP-0005  
2007  
Z-0007  
2007  
SUP-0020  
2007



**General Notes for Rezoning**

- Rezoning 4.7 acres of LB to R2 with proffers and Special Use Permit to allow a residential cluster development.
- Parcel Numbers and Owners:
  - Parcel ID# 4730100036  
Investment Properties of Virginia, LLC  
PO Box 150  
Barhamsville, VA 230110150
  - Parcel ID# 4730100037  
Investment Properties of Virginia, LLC  
PO Box 150  
Barhamsville, VA 230110150
  - Parcel ID# 4730100039  
Investment Properties of Virginia, LLC  
PO Box 150  
Barhamsville, VA 230110150
- Parcel Numbers and Property Addresses:
  - Parcel ID#: 4730100036      10.0 acres  
1676 Jamestown Road  
Williamsburg, VA 231853111
  - Parcel ID#: 4730100037      0.4 acres  
1678 Jamestown Road  
Williamsburg, VA 231853111
  - Parcel ID#: 4730100039      6.1 acres  
180 Red Oak Landing Road  
Williamsburg, VA 231853111
- Total area: 16.5 acres.
- Existing zoning:
  - LB: 4.7 acres
  - R2: 11.8 acres
- Topographic information is based on 5 foot contour intervals provided by James City County GIS information.
- Sheet 2, Environmental Inventory, indicates 25% slopes, soil inventory, wetlands, 100 year floodplain, the approximate location of Resource Protection Areas (RPA) and associated buffers, and perennial stream determinations. For further information on the Environmental Inventory, refer to the Community Impact Statement.
- This project is located in the Tidal Mainstem of the Powhatan Creek Watershed in James City County for which a watershed management plan was developed. To observe recommendations of this plan, a combination of structural best management practices, preservation of natural open space, and the use of special stormwater criteria are employed to: prevent further degradation of Powhatan Creek, enhance groundwater recharge usually lost from land development, and to help preserve some of the natural hydrology of the site.
- Curb and gutter streets are proposed. Except where ditch sections can increase infiltration opportunities.
- All streets within the development will be private per applicable VDOT standards.

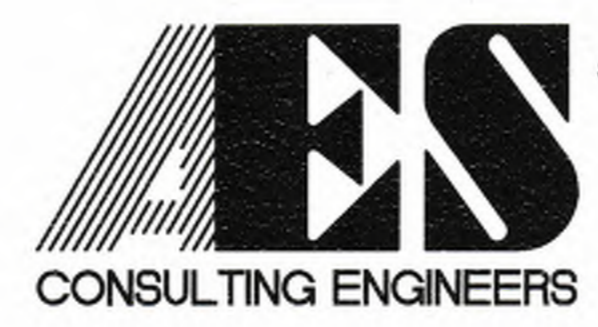
## James City County, Virginia



**VICINITY MAP**  
(APPROX. SCALE: 1" = 2000')

DATE: 6/1/07

AES PROJECT # 9462-02

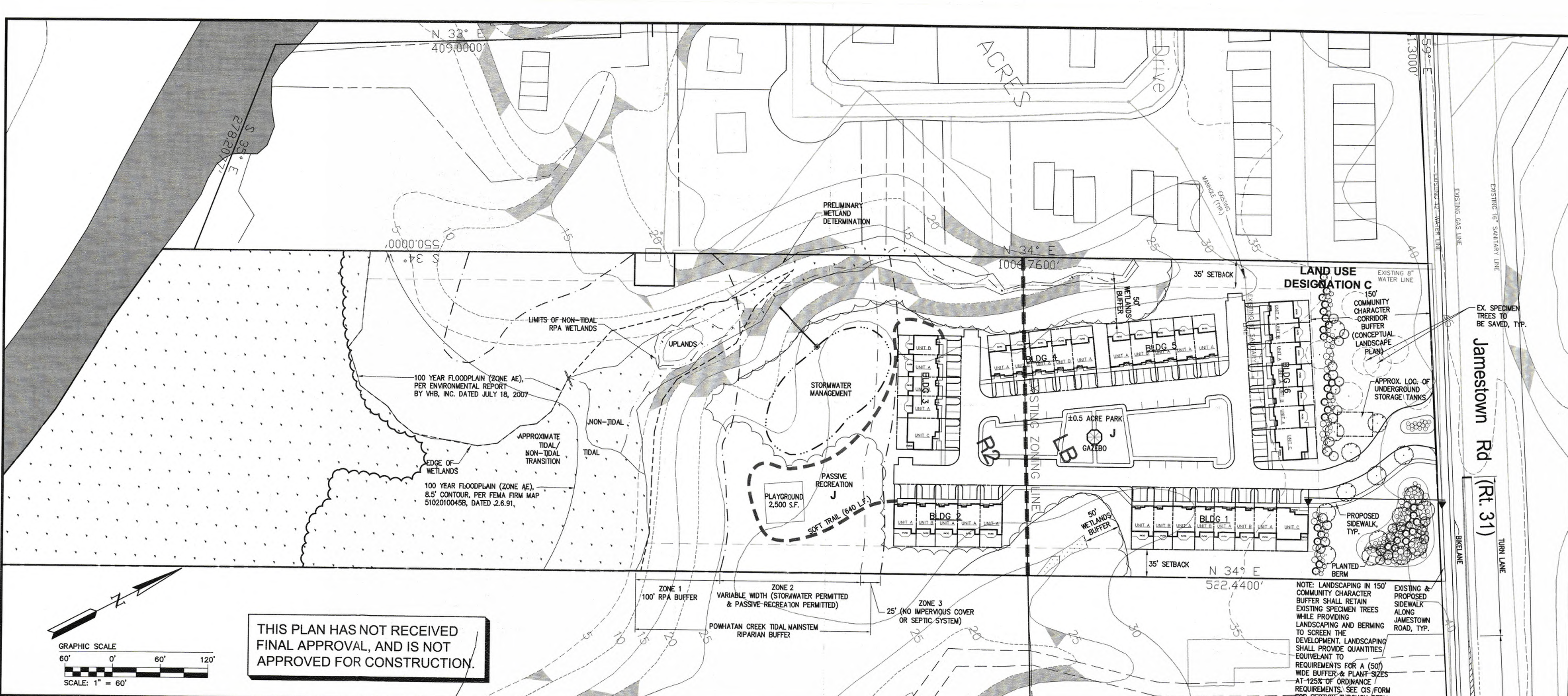


5248 Olde Towne Road, Suite 1  
Williamsburg, Virginia 23188  
(757) 253-0040  
Fax (757) 220-8994

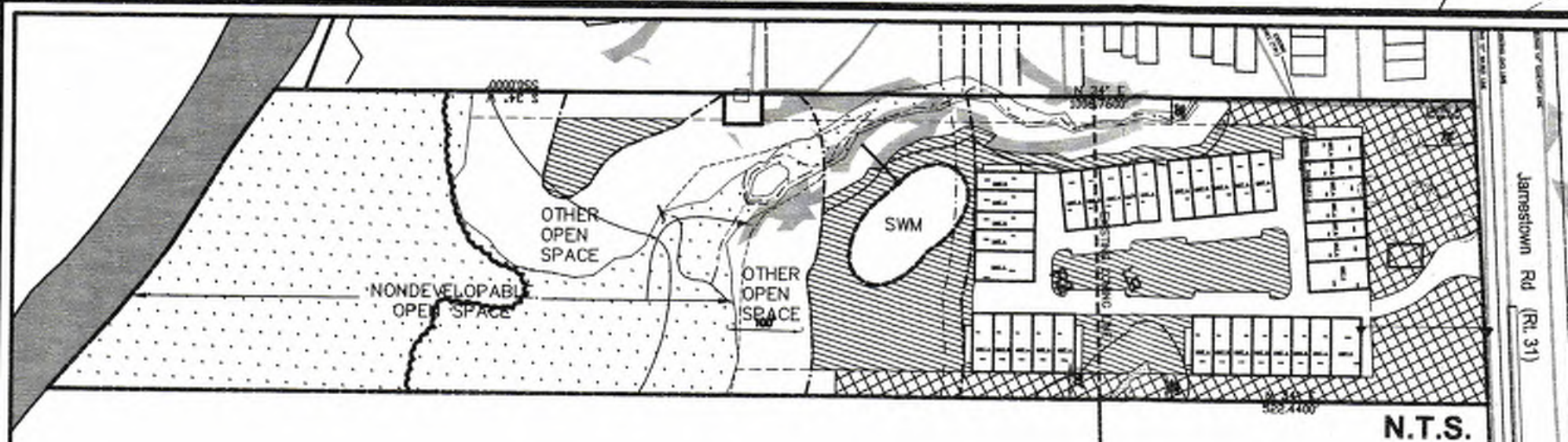
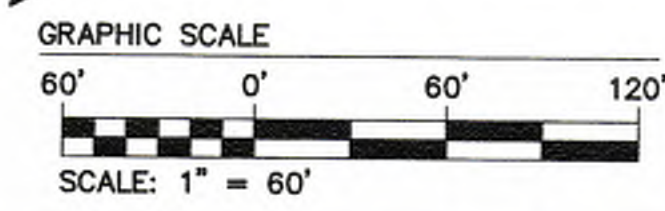
**INDEX OF SHEETS**

SHEET NUMBER	DESCRIPTION
1	COVER SHEET
2	ENVIRONMENTAL INVENTORY
3	MASTER PLAN
4	CONCEPTUAL STORMWATER MANAGEMENT PLAN

APPROVAL DATE	No.	DATE	REVISION / COMMENT / NOTE	BY
	3	3/17/08	REVISED PER COUNTY COMMENTS	JSP
	2	2/01/08	REVISED PER COUNTY COMMENTS AND CITIZENS' INPUT	JSP
	1	9/18/07	REVISED PER COUNTY COMMENTS	JSP



**THIS PLAN HAS NOT RECEIVED FINAL APPROVAL, AND IS NOT APPROVED FOR CONSTRUCTION.**



**LOCATION OF REQUIRED 40% OPEN SPACE WITHIN THE DEVELOPABLE AREA**

AREA	DEVELOPABLE OPEN SPACE COMPONENT	ACRES
	SETBACKS AND R.O.W. BUFFERS	2.1
	DEVELOPABLE OPEN SPACE NOT PART OF ANY REQUIRED YARD	2.1
	<b>TOTAL</b>	<b>4.2</b>

NOTE: PER 24-552 A MINIMUM OF 40 PERCENT OF THE NET DEVELOPABLE AREA OF THE SITE (4.2 AC) MUST BE PERMANENTLY SET ASIDE AS OPEN SPACE TO HELP MEET THAT REQUIREMENT, THE DEVELOPABLE AREA WITHIN ROW AND PERIMETER BUFFERS/SETBACKS MAY BE COUNTED FOR UP TO FIFTY PERCENT (IN THIS CASE 2.1 AC) OF THE REQUIRED OPEN SPACE.

**SITE AREA SUMMARY**

**NET DEVELOPABLE AREA CALCULATION**

DESCRIBED AREA	ACRES	% OF OVERALL PROPERTY
GROSS LAND AREA	16.5	100%
AREAS SUBTRACTED		
25% SLOPES OR GREATER, STREAM BEDS, MARSH AREAS, AREAS SUBJECT TO FLOODING & PONDS	0.4	2.4%
	5.7	34.5%
<b>NET DEVELOPABLE AREA</b>	<b>10.4</b>	<b>63.1%</b>

**GROSS DENSITY CALCULATIONS**

GROSS DENSITY: 2.18± D.U./AC\*

\*GROSS DENSITY IS CALCULATED AS FOLLOWS:  
 36 (TOTAL NUMBER OF DWELLING UNITS) / 16.5 (TOTAL AREA OF SITE)

GROSS DENSITY (W/ REMOVAL OF CONSERVATION LAND USE AS PER JCC COMPREHENSIVE PLAN): 3.53± D.U./AC\*\*

\*\*GROSS DENSITY IS CALCULATED AS FOLLOWS:  
 36 (TOTAL NUMBER OF DWELLING UNITS) / 10.4 (TOTAL AREA OF SITE) - (CONSERVATION LAND USE)

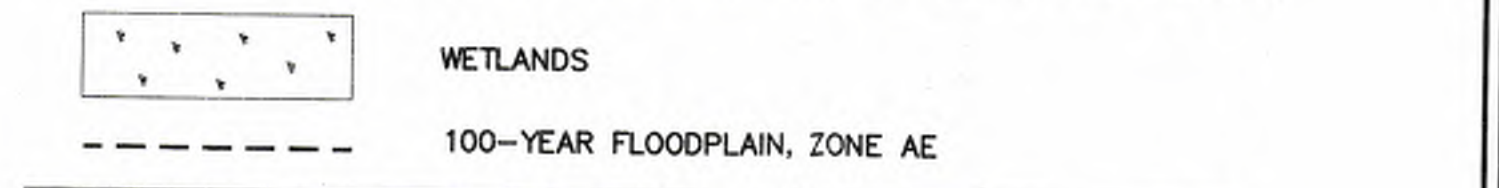
**COMPOSITION OF DEVELOPABLE AREA**

DESCRIBED AREA	ACRES	% OF NET DEVELOPABLE	% OF OVERALL PROPERTY
NON-OPEN SPACE AREAS			
ROADS AND PARKING AREA (EXCLUSIVE OF LOTS)	0.9	8.7%	5.5%
AREA IN TOWNHOME LOTS	1.8	17.3%	10.9%
STORM WATER MANAGEMENT FACILITY	0.4	3.8%	2.4%
<b>SUBTOTAL</b>	<b>3.1</b>	<b>29.8%</b>	<b>18.8%</b>
OPEN SPACE			
DEVELOPABLE OPEN SPACE WITHIN REQUIRED PERIMETER BUFFERS	2.5	24.0%	15.2%
DEVELOPABLE OPEN SPACE NOT PART OF ANY REQUIRED YARD	2.6	25.0%	15.8%
DEVELOPABLE OPEN SPACE WITHIN 100' RPA BUFFER	2.2	21.2%	13.3%
NONDEVELOPABLE OPEN SPACE	6.1	N/A	13.3%
<b>TOTAL OPEN SPACE</b>	<b>13.4</b>	<b>N/A</b>	<b>81.2%</b>

**LEGEND**

LANDUSE C: ATTACHED STRUCTURES LESS THAN THREE STORIES AND CONTAINING MORE THAN FOUR DWELLING UNITS.

LANDUSE J: AREAS OF COMMON OPEN SPACE, WITH RECREATION AREAS NOTED.



**IMPERVIOUS CALCULATIONS**

PARKING, ROADS, AND DUMPSTER PADS	1.2± AC
SIDEWALKS	0.3± AC
BUILDINGS	0.9± AC
<b>TOTAL IMPERVIOUS AREA</b>	<b>2.4± AC (14.5% OF OVERALL PROPERTY)</b>

**JCC COMPREHENSIVE PARKS AND RECREATION MASTER PLAN TABLE**

JCC RECREATION PLAN STANDARDS (36 TOWNHOMES)	REQUIRED	PROVIDED
PARK LAND	0.22 ACRES	0.5± ACRES
PLAYGROUND	0.122 PLAYGROUND	1 PLAYGROUND
TRAILS	0.094 MILES/496 LF.	0.12 MILES/640± LF.
COURT	0.047 COURT	PART OF ADDITIONAL 0.28 ACRES OF PARK LAND
SOFTBALL FIELD	0.012 SOFTBALL FIELD (420 S.F. ASSUMING 35,000 S.F. FIELD)	PART OF ADDITIONAL 0.28 ACRES OF PARK LAND

NOTE: CALCULATIONS BASED ON RECOMMENDED PROFFERS FOR TOWNHOUSE AND MULTI-FAMILY DEVELOPMENTS PER JAMES CITY COUNTY COMPREHENSIVE PARKS AND RECREATION MASTER PLAN.

No.	DATE	REVISION / COMMENT / NOTE	REVISION BY	REVIEWED BY
3	3/17/08	REVISED PER COUNTY COMMENTS	MRA	JSP
2	2/01/08	REVISED PER COUNTY COMMENTS AND CITIZENS' INPUT	MRA	JSP
1	9/18/07	REVISED PER COUNTY COMMENTS	SJR	JSP



5248 Olde Towne Road, Suite 1  
 Williamsburg, Virginia 23188  
 (757) 253-0040  
 Fax (757) 220-8994

**BINDING MASTER PLAN**  
 PER ZONING ORDINANCE SECTIONS 24-484 (b) (1)-(5) & 24-554 (a)-(e)

**POWHATAN TERRACE**  
 REZONING AND SPECIAL USE PERMIT  
 for  
**ASSOCIATED DEVELOPERS, INC.**

JAMESTOWN DISTRICT      JAMES CITY COUNTY      VIRGINIA

Designed	Drawn
JSP	MRA
Scale	Date
1"=60'	6/1/07
Project No.	Drawing No.
9462-02	3 OF 4





**PROPOSED FRONT  
ELEVATION**

**Guernsey  
Tingle  
Architects**  
11111 Westpark Drive  
Suite 200  
Houston, Texas 77036  
713.865.1111

Powhatan Terrace  
Conceptual Elevations  
James O'Connell, Virginia

Date: 4-18-07  
Client: [REDACTED]  
Project: 3070000  
SK-2

Small vertical text on the left margin, likely a file path or reference code.



**JAMESTOWN ROAD  
ELEVATION**

Guernsey  
Tingle  
Architects  
W. 1000 S. 1000 E.  
Salt Lake City, UT 84143

Powhatan Terrace  
Conceptual Elevations  
James Coy-Carron, Virginia

Date: 4-14-07  
Scale: 1/8" = 1'-0"  
Drawing No: 207-030  
Project: 207-030  
SK-1

**ITEM SUMMARY**

DATE: 1/9/2018

TO: The Board of Supervisors

FROM: Teresa J. Fellows, Deputy Clerk

SUBJECT: Consideration of a personnel matter, the appointment of individuals to County Boards and/or Commissions pursuant to Section 2.2-3711 (A)(1) of the Code of Virginia and pertaining to the Planning Commission, Thomas Nelson Community College Board, and Social Services Advisory Board

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**ATTACHMENTS:**

Description	Type
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**REVIEWERS:**

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 4:35 PM

**ITEM SUMMARY**

DATE: 1/9/2018  
TO: The Board of Supervisors  
FROM: Teresa J. Fellows, Deputy Clerk  
SUBJECT: Adjourn until January 20, 2018 for the Board Retreat

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**REVIEWERS:**

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	1/2/2018 - 1:44 PM